151-245

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

No. 957.

R. VAN BROCKLIN AND J. F. STACY, PLAINTIFFS IN ERROR,

vs.

BUTLER P. ANDERSON, COMMISSIONER OF REVENUE; THE STATE OF TENNESSEE; THE COUNTY OF SHELBY; THE TAXING DISTRICT OF SHELBY COUNTY; AND LAWRENCE LAMB, RECEIVER AND BACK TAX COLLECTOR OF THE CITY OF MEMPHIS.

IN ERROR TO THE SUPREME COURT OF THE STATE OF TENNESSEE.

FILED SEPTEMBER 18, 1885.

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1 United States of America to Butler P. Anderson, commissioner of revenue; The State of Tennessee, The County of Shelby, The Taxing District of Shelby County, and Laurence Lamb, receiver and back tax collector of the city of Memphis:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday in October, 1885, pursuant to a writ of error filed in the clerk's office of the supreme court for the western division, sitting at Jackson, in a matter of controversy therein in the suit styled Butler P. Anderson, commissioner of revenue, against Elizabeth Van Brocklin and others, wherein R. Van Brocklin and J. F.
2 Stacy are defendants in error, to show cause, if there be any, why the judgment and decree in the said writ of error mentioned should not be corrected and speedy justice done to the parties in that behalf.

Witness the Honorable James W. Deaderick, chief justice of the supreme court of the State of Tennessee, this 11 day of June, 1885.

JAS. W. DEADERICK,
Chief Justice of the Supreme Court of Tennessee.

Service of this citation for B. P. Anderson, commissioner of revenue; The State of Tennessee, and The County of Shelby acknowledged this 13th day of June, A. D. 1885.

LEE THORNTON,
Solicitor for State & County,
AND —— ANDERSON,
Commissioner of Revenue.
LAURENCE LAMB,
Receiver & Back Tax Collector of the City of Memphis.

3 Service acknowledged this 15 day of June, A. D. 1885.

TAXING DISTRICT,
Per D. P. HADDEN, C. T.

[Endorsed:] No. (3). 1088. Shelby ch'y docket. B. P. Anderson, com'r, *vs.* Eliz. Van Brocklin & *als.* Citation.

4 Supreme Court of the United States.

Know all men by these presents that we, R. Van Brocklin, J. F. Stacy, and L. B. Eaton, surety, are held and firmly bound unto Butler P. Anderson, commissioner of revenue; The State of Tennessee, The County of Shelby, The Taxing District of Shelby County, and Laurence Lamb, receiver and back tax collector of the city of Memphis, in the sum of one thousand dollars, to be paid to the said Butler P. Anderson, commissioner of revenue; The State of Tennessee, The county of Shelby, The Taxing District of Shelby County, and Laurence Lamb, receiver and back tax collector of the city of Memphis, their executors, or administrators; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and
5 severally and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals; dated this 10th day of June, 1885.

Whereas the above-named R. Van Brocklin and J. F. Stacy have prosecuted a writ of error appeal to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled action by the supreme court of the State of Tennessee: Now, therefore, the consideration of this obligation is such that if the above-named R. Van Brocklin and J. F. Stacy shall prosecute their said writ of error appeal to effect and answer all costs and damages if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

R. VAN BROCKLIN,
By his agent and attorney, GEO. GILLHOM. [SEAL.]
J. F. STACY,
6 By his agent and attorney, GEO. GILLHOM. [SEAL.]
L. B. EATON. [SEAL.]

Acknowledged before me this 10th day of June, 1885.

———.

UNITED STATES OF AMERICA, *Western District of Tennessee:*

Personally appeared before me, B. W. Etheridge, one of the commissioners of the circuit and district courts of the United States for said western district of Tennessee, S. B. Eaton, one of the sureties on the within bond, who, being by me first duly sworn, makes oath and says: That he is a resident of the district of West Tennessee, and is worth the sum of fifty thousand dollars in unincumbered real estate in his own name and right over and above his legal debts and liabilities and subject to execution under the laws of the State of Tennessee; that said property is situate in Memphis, & in the county of Shelby and State of Tennessee, and described as follows: Various lots, improved & unimproved, in the city of Memphis, & several plantations in the said county.

L. B. EATON.

Subscribed and sworn to before me this 10th day of June, A. D. 1885.

BELL. W. ETHERIDGE,
United States Commissioner for said Western District of Tennessee.

This bond is approved by me.
This 11th day of June, 1885.

JAS. W. DEADERICK,
Chief Justice of the Supreme Court of Tennessee at Jackson.

Filed June 11th, 1885.

JNO. W. BUFORD, *Clerk.*
By CHAS. C. CONGER, *D. C.*

7 [Endorsed:] No. (2). 1088. Shelby chancery docket. B. P. Anderson, com'r, *vs.* Eliz. Van Brocklin *et als.* Bond.

8 STATE OF TENNESSEE, } ss:
Shelby County. }

Chancery Court of Shelby County.

Please before the Honorable W. W. McDowell, chancellor of the chancery court of Shelby county, held in Memphis and State and county aforesaid, and at the October term thereof, 1884.

Be it remembered that heretofore, to wit, 26th Sept., 1873, Butler P. Anderson, com., &c., filed his bill of complaint against Elizabeth Van Brocklin in the ——, in the words and figures following, viz:

9 *Original Bill.*

BUTLER P. ANDERSON, Commissioner of Revenue of Shelby County, who Sues for the Use of the State of Tennessee, Complainant,

v.

ELIZABETH VAN BROCKLIN, A. H. GLENN, JOHN C. MCLEMORE, and Toof, Phillips and Co., Firm Composed of John S. Toof, C. J. Phillips, and F. M. Mahan, Defendants.

To the Hon. R. J. Morgan, chancellor of the first chancery court of Shelby county, Tenn.:

The complainants respectfully shows to the court that, pursuant to the act of the Legislature of the State of Tennessee, approved March 29th, 1872, he is acting commissioner of revenue for Shelby county, duly elected and qualified by the county court of said county on the 15th day of October, 1872, as shown by a certified copy of the order of said court here to the court shown, now filed as Exhibit A, and prayed to be taken as a part of this

10 bill.

The complainant further shows that the defendant — r/sident of ——, and owned or claimed the following described property: Lots 6, 7, 8, 9, 10, 13, 14, 34, 35, 36, block 13, Fort Pickering; also lot No. 5, block No. 31, Fort Pickering, and lot No. 21, block No. 2, Fort Pickering, in the 14th district of Shelby county, Tenn., city of Memphis. The defendants are required in their answers as true,— and full description of said property and show who are the present owners of the same, and how they claim.

The above-described property was originally assessed by the following description, to wit:

As lots 6, 7, 8, 14, block 13, and lot 5, block 31, Fort Pick-

11 ering, in the 14th district, and in the name of A. S. Glenn, for $1,000, and $500 for 1866, and as lots 6, 7, 8, 9, 10, 14, 34, 35 and 36, block 13, Fort Pickering, and lot 5, block 31, Fort Pickering, in same district and same name, for $2,000, and $500 for 1867; as lots 34, 35, 39, 6, 7, 8, 9, 10, 13, 14, in same district, in name of estate M. H. Glenn, for $1,000 for 1869, and lot 21 Broadway, S. 25x116, Fort Pickering, in name of the estate of N. H. Glenn, for $100 for 1869, and as lots 6, 7, 8, 9, 10, 13, 14, Fort Pi-

in Ft. Pink, 170x112½, in the name of A. H. Glenn, for $650 for 1870, and as lot 21, block 2, Broadway street, Fort Pickering, 26x116, for $100 for 1870.

The complainant shows that the said property above described, having been duly reported and condemned for sale
12 by the circuit court of Shelby county, was struck off and sold to the treasurer of the State of Tennessee on the 6th day of July, 1868, 1st day of July, 1868, 4 July, 1870, 3d day of July, 1871. The complainant now says that, although said property was so struck off and sold, yet the State has been defeated in the collection of the taxes on the same by reason of the irregularity and void character of said sales.

The taxes, costs, charges, and expenses of said sale, amounting in the aggregate to the sum of $214, as shown by the bill of particulars herewith filed as Exhibits 1, 2, 3, 4, and 5, and prayed to be
13 taken as part of this bill, have never been satisfied, but still remain due and unpaid, together with the interest thereon. The complainant says that said exhibits are certified copies of the descriptive lists in his office, furnished in pursuance of said act above mentioned, and are correct copies of the original assessments.

The State has a lien on said property for the unpaid State, county, and special taxes assessed against it.

The complainant has found it necessary to employ Castles and Murrell as solicitors to prosecute this suit, and the court is requested to fix their compensation and to decree its payment, as authorized by law.

14 Premises considered, complainant prays that the said parties named in the caption be made defendants hereto, and served with the proper process, returnable to the October term of this court; and that they be required to plead, answer, or demur within the time required by law. Complainant prays for an enforcement of said lien by a sale of said property and an application of the proceeds to the payment of the said taxes, costs, charges, and expenses of the previous tax sales, interest thereon, and all the costs of this proceeding.

Complainant prays for all necessary orders, references, decrees, and for such other and further relief, general and special, as the facts of the case may justify.

15 CASTLES & MURRELL,
Solicitors for Complainants.

Leave to Amend.

Chancery Court of Shelby County.

B. P. Anderson, Revenue Commissioner, }
v. } 1163. 1st Rule.
Elizabeth Van Brocken *et al.* }

In this cause, on motion of solicitors for complainant, leave is hereby granted to file an amended bill of revivor, on which let process issue.

Entered Nov. 8, 18–3.

B. P. ANDERSON
v.
E. VAN BROCKELEN *et als.* } 1163. R. D.

16 To the Honorable W. W. McDowell, chancellor:

Petitioner Laurance Lamb, receiver and back-tax collector of the old city of Memphis, would show unto your honor that the defendants to the bill filed in this cause are the owners of the property described therein.

There are taxes due the old city of Memphis on said property for various years. A reference is here made to the tax bills heretofore attached, marked as exhibits hereto and prayed to be taken as a part hereof, but need not be copied. They are numbered from 1 to 22, both inclusive.

He prays that upon the hearing of this cause your honor will render a decree for the taxes found to be due on said property.

17 In case of a sale, that the same be sold on a credit of not less than six months, and that the equity of redemption be barred.

He prays for such other relief, both general and special, as the facts of this cause may merit.

TAYLOR AND CARROLL,
Att'ys for Petitioner.

STATE OF TENNESSEE, }
County of Shelby. } *ss:*

Personally appeared before Robert J. Black, clerk and master of the chancery court of Shelby county, John J. Shea, for Laurance Lamb, who makes oath in due form of law that the statements made in the foregoing petition of his own knowledge are true, and

18 those made upon information he believes to be true.

JOHN J. SHEA.

Sworn to and subscribed before me, this 24 day of January, 1884.

J. M. BRADLEY,
D. C. & M.

Ward No. 10. Folio 299.

MEMPHIS, —— —, 188–.

Harman, A., to the State of Tennessee, for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 48th corporate year (1875).

EXHIBIT 1.

Lot.	*C. Lot.*	*Block.*	*Description of Property.*	*Value.*
5	—	3	150 x 170, Jackson, N. W., C., 8th	
			Total value	2000 00

19

Taxes for general expenses----------
Interest on same from Jan'y 1st, 1876----------
" interest on bonds----------
" judgments----------
" sinking fund----------
Interest on last three items------
" schools----------
Interest on same----------
" sundry mandamus----------
Interest on same----------
" Brown mandamus----------
Interest on same----------
Total rate----------
Total tax----------
Total interest----------
Sum total,---------- 52 80

Received —— —, 188–, of —— ——, in part payment of above—

8—— in cash.
8—— in compromise bonds and coupons, *@* par.
8—— in interest on same, *@* par.
8—— in judgments, *@* 55, 8——.
8—— in interest on same, *@* 55, 8——.
8—— in other indebtedness, *@* 50, 8——.
8—— in interest on same, *@* 50, 8——.
8——, valued at ——.
Discount.

——— ———.
Receiver and Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10. Folio 270.

MEMPHIS, —— —, 188–.

Van Brocklen Royal to the State of Tennessee (new limits) for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 50th corporate year, 1877.

21

Lot, C. Lot.	*Block.*	*Description of Property.*	*Value.*
21 --	6	25 x 118, N. Second, and Broadway ------	
		Total value ----------	140 00

Tax [for] general expenses, 95c. on $100 --
Interest on same from 1st Jan'y, 1878
" interest on bonds, 15c.----------
" judgments, 5c.----------
" sinking fund, 1c.----------

Interest on last three items
Tax schools, 10c.
Interest on same
" sundry mandamus, 21c.
Interest on same
" Frank mandamus, 5c.
Interest on same
" Brown mandamus, 50c.
Interest on same
Total rate, $2 02.
22 Total taxes 2 96
Total interest
Sum total

Received ——— —, 188–, of ——— ——— in part payment of above—
$——— in cash.
$——— in compromise bonds and coupons, *&c.* par.
$——— in interest on same, *&c.* par.
$——— in judgments, *&c.* 55, $———
$——— in interest on same, *&c.* 55, $———
$——— in other indebtedness, *&c.* 50, $———
$——— in interest on same ———
Valued at ———.
Discount.

——— ———
Receiver & Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10 — Folio 268.

MEMPHIS, ——— —, 188–.

23 Van Brocklen Royal to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 19th corporate year (1876).

Lot, C. Lot, Block.	*Description of Property.*	*Value.*
21 ——— 6	25 x 118, Second and Broadway	
	Total value	200 00

Tax for general expenses, $1 00 on $100
Interest on same from 1st January, 1877
" sundry indebtedness, 7c.
" judgments, 5ct.
Interest on last two items
" schools, 10ct.
Interest on same
" Mississippi river
" railroad, 10c.
24 Interest on same

Tax sundry mandamus, 40c.
" Brown mandamus, 60c.
Interest on same.
Total rate, $2.32.
Total tax. 1 64
Total interest.
Sum total.

Received ——— —, 188–, of ——— ———, in payment of above—

$——— in cash.
$——— in compromise bonds, coupons, @ par.
$——— in interest on same, @ par.
$——— in judgments, @ 55c.
$——— in interest on same, @ 55.
$——— in other indebtedness, @ 50, $———.
$——— in interest on same.
$———, valued at ———.
Discount.

25

——— ———.
Receiver and Tax Collector.
———, *Deputy.*

———

Ward No. 10. Folio 232.

MEMPHIS, ——— —, 188–.

Van Brocklen Royal to the State of Tennessee for use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 48th corporate year (1875).

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
21	—	6	25 x 118, Second and Broadway	

4.

Total value. 200 00
Tax for general expenses, 10c. on $100.
Interest on same from 1st Jan'y, 1876
" interest on bonds, 20c.
" judgments, 5c.
" sinking fund, 25c.
Interest on last three items.
" schools, 10c.
" sundry mandamus, 50c.
Interest on same.
" Brown mandamus, 51c.
Interest on same.
Total rate. 82 64
Total tax. 5 28
Total interest.
Sum total.

26

Received —— —, 188–, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds & coupons, *@* par.
$——— in interest on same, *@* par.
$——— judgments, *@* 55c.
T. & C., No. 5046.
27 $——— in interest on same, *@* 55c.
$——— in other indebtedness, *@* 50c.
$——— in interest on same, *@* 50c.
$——— value at ——.
Discount.

——— ———,
Receiver and Back Tax Collector.
——— ———, *Deputy.*

———

Ward No. 10. Folio 21.

MEMPHIS, ——, —, 188–.

Glenn, A. H., est., to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 47th corporate year (1874.)

Lot, C. Lot, Blk.	*Description of Property.*	*Value.*
21 — 6	25 x 116, S. Broadway, 5	
	Total value	100 00
28	Tax for general expenses, $1 on $100	
	Interest on same from 1st January, 1875	
	" interest on bonds, 25c. on $100	
	" sinking fund, 1c. on $100	
	Interest on last two items	
	" schools, 20c. on $100	
	Interest on same	
	" Mississippi River R. R., 4 on $100	
	Interest on same	
	" Brown mandamus, 30c. on $100	
	Interest on same	
	Total tax	1 80
	Total interest	
	Sum total	

Received —— —, 188–, of —— ——, in part payment of above—

$——— in cash.
29 $——— in compromise bonds & coupons, *@* par.
$——— in interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55c.
$——— in other indebtedness, *@* 50c.
$——— in interest on same, *@* 50c.
$———, valued at ——.
Discount.

——— ———,
Receiver & Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10. Folio 22.

MEMPHIS, —— —, 188–.

Glenn, A. H., est. (new limits), to the State of Tennessee for the use of the creditor of the extinct municipality, the city of Memphis, for city taxes, 16th corporate year (1873).

30

Lot. C. Lot.	*Blk.*	*Description of Property.*	*Value.*
21 —	6	25 x 146, Broadway, S.	

6.

Total luc.	100 00
Tax for general expenses, $1 on $100	
Interest on same from 1st Jan'y, 1874	
" interest on bonds, 50c. on $100	
" sinking fund, 10c. on $100	
Interest on last two items	
" schools, 30c. on $100	
Interest on same	
" reimbursing paving, 70c. on $100	
Interest on same	
" Brown mandamus, 70c. on $100	
Interest on same	
" Mississippi River R. R., 10c. on $100	
Interest on same	
Total rate, $3.40 on $100	
Total tax	
31 Total interest	
Sum total	

Received —— —, 188–, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds and coupons, *@* par.
$——— interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55c.
$——— in other indebtedness, *@* 50c.
$——— in interest on same, *@* 50c.
Value at ——.
Discount.

———— ————,
Receiver & Back Tax Collector.
———— ————, *Deputy.*

Ward No. 19. Folio 19.

MEMPHIS, —— —, 188–.

32 Glenn, A. H., est. (new limits), to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 45th corporate year (1872).

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
21	--	6	21 x 116, Broadway, S.	

7.

Total value 100 00

Tax for general expenses, 81 on $100 .....
Interest on same from 1st January, 1873 .....
" interest on bonds, 50c. on $100 .....
" sinking fund, 10c. on $100 .....
Interest on last two items .....
" schools, 30c. on $100 .....
Interest on same .....
Total rate, $1.90 on the $100 .....
Total tax .....
Total interest .....
33 Sum total .....

Received —— —, 188–, of —— ——, in part payment of above—

$—— in cash.
$—— in compromise bonds and coupons, *@* par.
$—— in interest on same, at par.
$—— in judgments, *@* 55c.
$—— in interest on same, *@* 55c.
$—— in other indebtedness, *@* 50c.
$—— in interest on same, *@* 50c.
Valued at ——.
Discount.

Receiver and Back Tax Collector.
——— ———, *Deputy.*

Ward No. 19. Folio 18.

MEMPHIS, —— —, 188–.

34 Glenn, A. H., est. (new limits), to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 44th corporate year (1871).

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
21	--	6	25 x 116, Broadway, S.	

8.

Total value 100 00

Tax for general expenses, 70c. on $1.00 ____
Interest on same from 1st January, 1872 ____
" interest on bonds, 50c. ____
Interest on same ____
" schools, 30c. ____
Interest on same ____
Total rate, $1.50 on $100 ____
Total tax ____
Total interest ____
Sum total ____

35 Rec'd —— —, 188–, of —— ——, in part payment of above—

$—— in cash.
$—— in compromise bonds and coupons, @ par.
$—— in interest on same, @ par.
$—— in judgments, @ 55c.
$—— in interest on same, @ 55c.
$—— in other indebtedness, @ 50c.
$—— in interest on same, @ 50c.
$——, valued at ——.
Discount.

———— ————,
Receiver & Back Tax Collector.
———— ————, *Deputy.*

———

Ward 10. Folio 20.

MEMPHIS, —— —, 188–.

Glenn, A. H., est. (old limits), to the State of Tennessee for the use of the creditors of the extinct municipality, the city of
36 Memphis, for city taxes, 43d corporate year (1870):

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
21	—	6	25 x 116, Broadway, S. ____	

9.

Total value ____ 100 00

Tax for general expenses, 70c. on $100 ____
Interest on same from 1st Jan'y, 1871
" interest on bonds, $1.00 on $100 ____
Interest on same ____
" schools, 30c. on $100. ____
Interest on same ____
Total rate, $2.00 on the $100 ____
Total tax ____
Total interest ____
Sum total ____

Received —— —, 188–, of —— ——, in part payment of above—

37 $——— in cash.
$——— in compromise bonds & coupons, *@* par.
$——— interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55c.
$——— in other indebtedness, *@* 50, $———.
$——— in interest on same, *@* 50, $———.
$———, valued at ——.
Discount.

——— ———,
Receiver & Back Tax Collector.
——— ———, *Deputy.*

———

Ward No. 10. Folio 31.

MEMPHIS, —— —, 188–.

38 Glenn, A. H., est. to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 42nd corporate year (1869).

Lot.	*C Lot.*	*Blk.*	*Description of Property.*	*Value.*
21		6	25 x 116, Broadway	
			10.	
			Total value	100

Tax for general expenses, $1.45 on the $100
Interest on same from January 1st, 1870
" schools, 30c.
Interest on same
Total rate, $1.75 on the $100
Total tax
Total interest
Sum total

Received —— —, 188–, of ———, in part payment of above—

39 $——— in cash.
$——— in compromise bonds and coupons, *@* par.
$——— in interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55, $———.
$——— in other indebtedness, *@* 55, $———.
$——— in interest on same, *@* 50, $———.
$———, valued at ——.
Discount.

——— ———,
Receiver & Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10. Folio 77.

MEMPHIS, —— —, 188–.

Unknown to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 11st corporate year (1868).

40

Lot. C. Lot.	*Blk.*	*Description of Property.*	*Value.*
21 --	6	25 x 116, Broadway	
		11.	
		Total value	100 00
		Tax for general expenses, $1.60 on the $100	
		Interest on same from 1st Jan'y. 1869	
		" schools, 20c. on the $100	
		Interest on same	
		Total rate, $1.80 on $100	
		Total tax	
		Total interest	
		Sum total	

Received —— —, 188–, of —— ——, in part payment of above—

$——— in cash.
41 $——— in compromise bonds and coupons, *@* par.
$——— in interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55c.
$——— in other indebtedness, *@* 50c.
$——— in interest on same, *@* 50c.
Valued at ——.
Discount.

Receiver & Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10. Folio- 146, 90, 86.

MEMPHIS, —— —, 188–.

Van Brocklen, D.; unknown; Glenn, A. H.; Brown, H. B. (new limits), to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 51st
42 corporate year, (1878).

Lot. C. Lot.	*Block.*	*Description of Property.*	*Value.*
6, 7, 8 --	13	72 x 100, Fourth W.	150 00
13, 14 --	"	48 x 100, " "	125
9, 10 --	13	48 x 137, Fourth W.	125
3, 6 --	13	21 x 100, Third street	300 00
34, 35 --	13	48 x 100 Third S.	100
		Total value	800 00

Tax for general expenses, 90c. on 100		20
Interest on same from 1st January, 1879		
Interest on compromise bonds, 06c. on 100		18
" judgments, 03c. on 100		42
" sinking fund, 04c. on 100		32
Interest on last three items		
" schools, 05c. on 100		40
Interest on same		
13 " sundry mandamus 30c.		2 40
Interest on same		
" Frank mandamus, 02c.		16
Interest on same		
Total rate		81 40
Total tax		11 20
Total interest		
Sum total		

Received —— —, 188–, of —— ——, in part payment of above—

8—— in cash.
8—— in compromise bonds and coupons, *@* par.
8—— in interest on same, *@* par.
8—— in judgments, *@* 55c.
8—— in interest on same, *@* 55c.
8—— in other indebtedness, *@* 50c.
8—— interest on same, *@* 50c.
8——, valued at ——.
Discount.

14

——— ———,
Receiver and Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10. Folio 220, 235, 271, 225.

MEMPHIS, —— —, 188–.

Unknown; Van Broeklen, D.; Glenn, A. H., heirs; Brown, H. B., (now limits) to the State of Tennessee, for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 50th corporate year (1877).

Lot.	*Q. Lot.*	*Block.*	*Description of Property.*	*Value.*
6, 7, 8	—	13	72 x 100, Fourth St.	150 00
13, 14	—	13	48 x 100, "	105
9, 10	—	13	56 x 137, Fourth St.	107
45				
36	—	13	24 x 100, Third	50
34, 35	—	13	48 x 100, Third E.	70
			Total value	480

	Tax for general expense, 95c. on $100	4 56
	Interest on same from 1st January, 1878	
	" interest on bonds, 15c. on $100	72
	" judgments, 5c. "	24
	" sinking fund, 1c. "	05
	Interest on last three items	
	" schools, 10c. on $100	48
	Interest on same	
	" sundry mandamus, 21c. on $100	1 01
	Interest on same	
	Frank mandamus, 5c. on $100	24
	Interest on same	
	" Brown mandamus	
	Interest on same	
	Total rate	1 52
	Total tax	7 30
	Total interest	
46	Sum total, costs	7 50

Received —— —, 188–, of —— ——, in part payment of above—

8—— in cash.
8—— in compromise bonds and coupons, *@* par.
8—— in interest on same, *@* par.
8—— in judgments, *@* 55c., 8——.
8—— in interest on same, *@* 55c., 8——.
8—— in other indebtedness, *@* 50c., 8——.
8—— in interest on same, *@* 50c., 8——.
8——, valued at ——.
Discount.

——— ———,
Receiver and Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10. Folio- 269, 241, 2381.

MEMPHIS, —— —, 188–.

47 Van Brocklen, D.; Glenn, A. H., heirs; Brown, H. B., to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 49th corporate year (1876).

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
6	--	13	24 x 100, Third St.	75
7	--	13	" "	75
8	--	"	" "	75
9	--	"	" "	75
10	--	"	" "	75
13	--	"	" "	75
14	--	"	" "	75

W. W. C., Jackson and 3d sts.:

36	--	13	24 x 100, Third E.	50
34,35	--	13	48 x 100, Fourth E.	1 00
			Total value	6 75

[On the margin:] 85,25.

	Tax [for] general expenses, $1.00 on $100	
	Interest on same from 1st Jan'y, 1877	
48	" sundry indebtedness, 7c. on $100	47
	" judgments, 5c. on $100	34
	Interest [on] last two items	
	" schools, 10c. on $100	67
	Interest on same	
	" Mississippi River R. R., 10c. on $100	68
	Interest on same	
	" sundry mandamus, 40c. on $100	2 70
	Interest on same	
	" Brown mandamus	
	Interest on same	
	Total rate	$1 72
	Total tax	11 61
	Total interest	
	Sum total, costs	13 50

Received ——, —, 188–, of —— ——, in part payment of the above—

$——— in cash.
49 $——— in compromise bonds & coupons, *@* par.
$——— in interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55c.
$——— in other indebtedness, *@* 55c.
$——— in interest on same, *@* 50c.
$———, valued at ——.
Discount.

———— ————,
Receiver & Back Tax Collector.
———— ————, *Deputy.*

Ward No. 10. Folio 232 & 3, 197 & 189.

MEMPHIS, —— —, 188–.

Van Brocklin, Delvo; Glenn, A. H.; Brown, H. B. to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis.

50

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
6	--	13	24 x 100, Third St.	75 00
7	--	"	" " " " "	75

8	--	13	24 x 100, Third St.	75		
9	--	"	" " " "	75		
10	--	"	" " " "	75		
13	--	"	" " " "	75		
14	--	"	" " " Jackson & Third St.	75		
						5 25
36	--	13	24 x 100, Third, E.	50		
						50
34,35	--	13	48 x 100, Fourth, E.	100		
						1 00
			Total value			6 75
			Tax for general expenses, $1.00 on $100			6 75
			Interest on same from 1st January, 1876			
			" interest on bonds, 20c. on $100			1 35
			" judgments, 5c. "			34
			" sinking fund, 25c. "			1 69
			Interest on last three items			
			" schools, 10c. on $100			67
51			Interest on same			
			" sundry mandamus, 50c.			3 38
			Interest on same			
			" Brown mandamus			
			Interest on same			
			Total rate			82 10
			Total tax			14 18
			Total interest			
			Sum total			

Received —— —, 188–, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds and coupons, *@* par.
$——— in interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55c.
$——— in other indebtedness, *@* 50c.
$——— in interest on same, *@* 50c.
$———, valued at ——.

52 Discount.

——— ———,
Receiver & Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10. Folio 21.

MEMPHIS, —— —, 188–.

Glenn, A. H., est., to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 47th corporate year (1874.)

Lot.	C. Lot.	Blk.	Description of Property.	Value.
6	--	13	24 x 112½, W. Fourth	150
7	--	13	24 x " " "	150
8	--	13	" " " " "	150
9	--	"	" " " " "	150
10	--	"	" " " " "	150
13	--	"	" " " " "	150
14	--	"	26 x " " "	150
36	--	"	24 " " E. Third	125
35	--	"	" " " "	125
53				
34	--	"	" " " "	125
			Total value	1,425
			Tax for general expenses, $1.00 on $100	14·25
			Interest on same from 1st January, 1875	
			" interest on bonds, 25c. on $100	3·56
			" sinking fund, 10c. on $100	14
			Interest on last two items	
			" schools, 20c.	2·85
			Interest on same	
			" Mississippi River R. R., 4c.	57
			Interest on same	
			" Brown mandamus	
			Interest on same	
			Total rate, $1.50 on $100.	
			Total tax	21·37
			Total interest	
			Sum total	

54 Received —— —, 188–, of —— ——, in part payment of above—

8—— in cash.
8—— in compromise bonds and coupons, *@* par.
8—— in interest on same, *@* par.
8—— in judgments, *@* 55c.
8—— in interest on same, *@* 55c.
8—— in other indebtedness, *@* 50c.
8—— in interest on same, *@* 50c.
8——, valued at ——.
Discount.

—— ——,
Receiver & Back Collector.
—— ——, *Deputy.*

Ward No. 10. Folio 22.

MEMPHIS, —— —, 188–.

Glenn, A. H., est. (new limits), to the State of Tennessee for the use of the creditors of the extinct municipality, the city of
55 Memphis, for city taxes, 46th corporate year (1873).

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
6	--	13	24 x 112½ Fourth St., 28	125
7	--	"	" " "	125
8	--	"	" " "	125
9	--	13	24 x 112½ Fourth St., 28	125
10	--	"	" " "	125
13	--	"	" " "	125
14	--	"	26 x " " "	125
36	--	"	24 " " "	125
35	--	"	" " "	125
34	--	"	" " "	125
			Total value	1,250
			Tax for general expenses, $1.00 on $100	12 50
			Interest on same from 1st January, 1874	
			" interest on bonds, 50c. on $100	6 25
			" sinking fund, 10c. on $100	1 25
			Interest on last two items	
			" schools, 30c. on $100	3 75
56			Interest on same	
			" reimbursing paving	
			Interest on same	
			" Brown mandamus	
			Interest on same	
			" Mississippi River R. R. 10c. on $100	1 25
			Interest on same	
			Total rate $2.00 on $100	
			Total tax	25 00
			Sum total	

Received —— —, 188, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds & coupons, @ par.
$——— in interest on same, @ par.
$——— in judgments, @ 55c.
$——— in interest on same, @ 55c.
$——— in other indebtedness, @ 50c.
$——— in interest on same, @ 50c.
$———, valued at ——.
57 Discount.

———— ————,
Receiver and Back Tax Collector.
———— ————, *Deputy.*

Ward No. 10. Folio 19–20.

Glenn, A. H., est. (new limits), to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 45th corporate year, (1872).

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
6	--	13	24 x 112½, Fourth St	100
7	--	"	" " "	100
8	--	"	" " "	100
9	--	"	" " "	100
10	--	"	" " "	100
13	--	"	" " "	100
14	--	"	26 " "	100
34	--	"	24 Third, E.	100
58				
35	--	"	24 " " Third, E.	100
36	--	"	" " " " "	100
			Total value	1,000
			Tax for general expenses, $1.00 on $100	10
			Interest on same from 1st January, 1873	
			" interest on bonds, 50c. on $100	5
			" sinking fund, 10c. on $100	1
			Interest on last two items	
			" schools, 30c. on $100	3
			Interest on same	
			Total rate, $1.90 on $100.	
			Total tax	19 00
			Total interest	
			Sum total	

Received —— —, 188–, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds & coupons, *@* par.
59 $——— in interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55c.
$——— in other indebtedness, 50.
$——— in interest on same, *@* 50c.
$———, valued at ——.
Discount.

———— ————,
Receiver & Back Tax Collector.
———— ————, *Deputy.*

Ward No. 10. Folio 18.

MEMPHIS, —— —, 188–.

Glenn, A. H., est. (new limits), to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 11th corporate year (1871).

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
6	--	13	Fourth St.	100
60				
7	--	13	Fourth St.	100
9	--	"		100
10	--	"		100
13	--	"		100
14	--	"		100
34	--	"		100
35	--	"		100
36	--	"		100
			Total value	1,000
			Tax for general expenses, 70c. on $100	7
			Interest on same from January 1st, 1872	
			" interest on bonds, 50c. on $100	5
			Interest on same	
			" schools, 30c.	3
			Interest on same	
			Total rate, $1.50 on $100	
			Total tax	15 00
			Total interest	
			Sum total	

61 Received —— —, 188, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds and coupons, @ par.
$——— in interest on same, @ par.
$——— in judgments, @ 55c.
$——— in interest on same, @ 55c.
$——— in other indebtedness, @ 50c.
$——— in interest on same, @ 50c.
$———, valued at ——.
Discount.

———, ———,
Receiver and Back Tax Collector.
———, *Deputy.*

Ward No. 10. Folio 20.

MEMPHIS, —— —, 188–.

Glenn, A. H., est. (old limits) to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Mem-
62 phis, for city taxes, 43d corporate year, 1870.

Lot.	C. L.	Blk.		Description of Property.	Value.
6	—	13	24 x 112½	Fourth St.	100
7	—	"	"	"	100
8	—	"	"	"	100
9	—	"	"	"	100
10	—	"	"	"	100
13	—	"	"	"	100
14	—	"	26 "	"	100
34	—	"	24 "	"	100
35	—	"	"	"	500
36	—	"	"	"	100
				Total value	1,000
				Tax for general expenses, 70c. on $1000	7
				Interest on same from Jan'y 1, '71.	
				Interest on bonds, $1.00 "	10 00
				Interest on same.	
				" schools, 30c. from Jan'y 1, 1871	3
				Interest on same.	
				Total rate, $2.00 on $100.	
				Total tax.	20 00
				Total interest.	
63				Sum total.	

Received —— —, 188–, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds and coupons, *@* par.
$——— in interest thereon, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, 55c.
$——— in other indebtedness, *@* 50c.
$——— in interest on same, *@* 50c.
$———, valued at ——.
Discount.

———— ————,
Receiver & Back Tax Collector.
———— ————, *Deputy.*

Ward No. 10. Folio 18.

MEMPHIS, —— —, 188–.

Glenn, A. H., est. (new limits), to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 14th corporate year (1871).

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
6	--	13	Fourth St.	100
60				
7	--	13	Fourth St.	100
9	--	"		100
10	--	"		100
13	--	"		100
14	--	"		100
31	--	"		100
35	--	"		100
36	--	"		100
			Total value	1,000
			Tax for general expenses, 70c. on $100	7
			Interest on same from January 1st, 1872	
			" interest on bonds, 50c. on $100	5
			Interest on same	
			" schools, 30c.	3
			Interest on same	
			Total rate, $1.50 on $100	
			Total tax	15 00
			Total interest	
			Sum total	

61 Received —— —, 188, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds and coupons, *@* par.
$——— in interest on same, *@* par.
$——— in judgments, *@* 55c.
$——— in interest on same, *@* 55c.
$——— in other indebtedness, *@* 50c.
$——— in interest on same, *@* 50c.
$———, valued at ——.
Discount.

———— ————,
Receiver and Back Tax Collector.
———— ————, *Deputy.*

Ward No. 10. Folio 20.

MEMPHIS, —— —, 188–.

Glenn, A. H., est. (old limits) to the State of Tennessee for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 43d corporate year, 1870.

62

Lot.	C. Lot.	Blk.		Description of Property.	Value.
6	—	13	24 x 112½	Fourth St.	100
7	—	"	"	"	100
8	—	"	"	"	100
9	—	"	"	"	100
10	—	"	"	"	100
13	—	"	"	"	100
14	—	"	26	"	100
34	—	"	24	"	100
35	—	"	"	"	100
36	—	"	"	"	100

	Total value	1,000
	Tax for general expenses, 70c. on $100	7
	Interest on same from Jan'y 1, '71	
	Interest on bonds, $1.00 "	10 00
	Interest on same	
"	schools, 30c. from Jan'y 1, 1871	3
	Interest on same	
	Total rate, $2.00 on $100	
	Total tax	20 00
	Total interest	
63	Sum total	

Received —— —, 188–, of —— ——, in part payment of above—

8—— in cash.
8—— in compromise bonds and coupons, *@* par.
8—— in interest thereon, *@* par.
8—— in judgments, *@* 55c.
8—— in interest on same, 55c.
8—— in other indebtedness, *@* 50c.
8—— in interest on same, *@* 50c.
8——, valued at ——.
Discount.

——— ———,
Receiver & Back Tax Collector.
——— ———, *Deputy.*

Ward No. 10. Folio 31.

MEMPHIS, —— —, 188–.

64 Glenn, A. H., est., to the State of Tennessee for the use of the creditors of the extinct municipality of the city of Memphis for city taxes, 42d corporate year, 1869.

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
6	—	13	Fourth, 24 x 112	100
7	—	"	" " "	100
8	—	"	" " "	100
9	—	"	" " "	100
10	—	"	" " "	100
13	—	"	" " "	100
14	—	"	" 26 "	100
34	—	"	Third 24 x 112½	100
35	—	"	" " x "	100
36	—	"	" " x "	100
			Total value	1,000
			Tax for general expenses, $1.45 on $100	14 50
			Interest on same from 1st January, 1870	
65			" schools, 30c.	3
			Interest on same	
			Total rate, $1.75 on $100	
			Total tax	17 50
			Total interest	
			Sum total	

Received —— —, 188–, of —— ——, in part payment of above—

$—— in cash.
$—— in compromise bonds and coupons, *@* par.
$—— in interest on same, *@* par.
$—— in judgments, *@* 55c.
$—— in interest on same, *@* 55c.
$—— in other indebtedness, *@* 50c.
$—— in interest on same, *@* 50c.
$—— valued at ——.
Discount.

——— ———,
Receiver and Back Tax Collector.
66 ——— ———, *Deputy.*

Ward No. 10. Folio 81.

MEMPHIS, —— —, 188–.

Glenn, A. H., est. unknown, to the State of Tennessee, for the use of the creditors of the extinct municipality, the city of Memphis, for city taxes, 41st corporate year, 1868.

Lot.	*C. Lot.*	*Blk.*	*Description of Property.*	*Value.*
9, 10	--	13	Fourth, 48 x 112½	200
34, 35, 36	--	"	Third, 72 x 112½	300
6	--	"	24 x 112½, Fourth	100
7	--	"	" " "	100
8	--	"	" " "	100
13	--	"	" " "	100
14	--	"	26 x 112½ "	100
			Total value	1,000
67			Tax for general expense, $1.60 on the $100	16
			Interest on same from 1st Jan'y, 1869	
			schools, 20c. on the $100	2
			Interest on same	
			Total rate, $1.80 on $100.	
			Total tax	18
			Total interest	
			Sum total	

22.

Received —— —, 188–, of —— ——, in part payment of above—

$——— in cash.
$——— in compromise bonds and coupons, @ par.
$——— in interest on same, @ par.
$——— in judgments, @ 55c.
$——— in interest on same, @ 55c.
$——— in other indebtedness, @ 50c.
$——— in interest on same, @ 50c.
68 $———, valued at ——.
Discount.

——— ———,
Receiver & Back Tax Collector.
——— ———, *Deputy.*

Filed January 24, 1884.

B. P. ANDERSON, Com'r.
v.
ELIZ. VAN BROCKLIN, *et al.* } 1163. R. D.

In this cause, for satisfactory reasons appearing to the court, it is ordered that the decree *pro confesso be* taken in this cause as to de-

fendant, Eliz. Van Brocklin, be set aside and she allowed five days within which to plead, answer or demur to this bill and as amended.

69 And it appearing that J. F. Stacy is interested in the property here involved, upon his application he is made a defendant and allowed five days to plead, answer or demur to this bill.

Entered Aug. 19, 1884.

B. P. Anderson, Com'r,)
v.) 1163. R. D.
Elizabeth Van Brocklen *et al.*)

In this cause it appearing that R. Van Brocklen is interested in the property involved in this case, upon his application in open court, made to that end, it is ordered that he be made a party defendant and allowed ff days to plead and set up any rights he may have herein and to defend said cause.

Entered August 25, 1884.

70 B. P. Anderson, Com'r,) 1163. R. D.
v.) 2326. H. D.
Eliz. Van Brocklen *et al.*)

Answer of J. F. Stacy to original and amended bills, and to petition of the receiver of the city of Memphis.

This defendant, answering and for answer, says that he is the owner in fee of lots 13 and 14, block 13, 10th ward, Fort Pickering, city of Memphis; that he became the purchaser of the same at a sale made by the United States, May 1st, 1878, and received his deed to the same soon thereafter, which of date July 19th, 1878, duly executed by the Hon. Commissioner of Internal Revenue and the Hon. Secretary of the Treasury of the United States, and
71 which is recorded in this county in book 150, at page 275, of register's office of Shelby county, Tennessee. He will file the original or duly certified copy of the same herein, if necessary.

He says that the United States purchased these lots at a sale made in this county in June, 1864, of certain lands for direct taxes due to the said United States under the provisions of an act of Congress approved June 7, 1862, and the acts amendatory thereto.

That by said act it was provided that in case no one would bid the amount of taxes, costs, &c., due on any tract or parcel of land when said taxes had been levied and not paid, then the United States should purchase the same; that in this instance a
72 direct tax had been levied by the United States in pursuance of law, which was not paid, and the land was sold according to law, and so bought by the United States, there being no other bidder for it.

That by said sale and purchase and a conveyance, which was then made by the direct tax comm'rs to the United States, said Government became the absolute owner in fee of said lots, as was finally

adjudicated and settled in an action at law between the United States and the original owners of said lots, in the circuit court of the United States for district of West Tennessee shortly after said sale.

That immediately after said purchase the United States
73 took possession of said lots, and during the remainder of the year- 1864, 1865, and down to some time in spring or summer of 1866, had and occupied the same as a part of Fort Pickering, then a military garrison of the United States, these lots being inside of said fort; and after that and up to the date of sale to this defendant the United States had occupied and used the same for governmental purposes and the support of the said Government.

Def't's submits that the levy of said direct tax, the sale of the land, and purchase of same by the United States, and the subsequent use of the same by the Government were all for purpose and facts of the same effect, to raise and collect revenue for the support of the
74 said Government and to meet and defray the legitimate, proper, and necessary expenditures in supporting said Government; and having been forced to buy the land to secure and collect the tax, the United States could not do less than hold and own the same and use it until it could be sold and the tax thus be finally realized and collected.

He submits and claims that so long as these lands were so owned and used by the said United States the same were not liable to assessment or levy for purposes of States, county, or municipal purpurposes, and the attempt by the State of Tennessee, the county of Shelby, and the city of Memphis so to do was nugatory, and that the taxes claimed from the year 1865 to 1878, inclusive, are
75 illegal and void, and that the court should so decree.

He has been in the actual, adverse, and peaceable possession of said lots continuously since July, 1878, and the same were granted by the State of Tennessee 50 or 60 years ago to one ——.

He further relies upon and pleads the presumption of payment of and as to all taxes due for more than 16 years before he was made a party hereto, and as well all statutes of limitation applicable to the case and the demands here sued upon. He does not admit that any of the taxes claimed here are in fact due, but requires strict proof that the same in every instance were legally and properly assessed and levied; that the amounts are correct, and that no illegal
76 costs, interests, or charges are included in the same, and the every tax, cost, or charge claimed is in fact legal and a proper charge and lien on his said property. And now he reserves the right to show, if he can, the same, or all of same, have been paid, or are not legal or correct.

Having fully answered, he prays, &c.

J. F. STACY,
By GEO. GILLHAM,
His Sol.

Filed 21st day of August, 1884.

Answer of R. Van Brocklen.

B. P. ANDERSON, Com'r, } 1163. R. D.
v. } 2326. H. D.
ELIZABETH VAN BROCKLEN *et als.* }

Defendant R. Van Brocklen, having been made a defendant
77 on his own motion, answering and for answer, says, that he is a resident and citizen of the State of New York, and has been for many years last past.

That he is the owner in fee of lot 21, block 6, 10th ward, city of Memphis, situated on the corner of 2d and Broadway streets, Fort Pickering, and on S. W. corner.

That he purchased the same of one Robert H. Glenn on or about the month of January 1877, and about the second day of June, that year, received from him a conveyance in fee of the same; that he went into possession of the same in May, 1877, claiming the same in fee under the said purchase and deed in June, 1877, and has, through himself, his agents, and tenants, held and occupied
78 the same continuously and up to the present time, and *and* adverse to the whole world.

That said land was granted by the State of Tennessee to one —— as many as fifty or sixty years ago.

He would show further that said Robert H. Glenn was the owner in fee of the same at date of his said purchase.

That on 16th day of June, 1864, this lot was sold by the commissioners who had been duly appointed under the provisions of an act of Congress of the United States entitled "An act for the collection of direct taxes in insurrectiary districts within the United States, and for other purposes," approved June 7, 1862, and the acts amendatory thereof.

79 That a direct tax to the United States had been duly and legally levied upon this lot, which was not paid as required by law, and was purchased by the United States, as there was no other bidder for the same who would bid the amount of tax, costs, &c., so due on the same. And in such case the law requires the *the* land be struck off and sold to the United States.

Whereupon the *the* commissioners duly conveyed the same to the United States, and said lot was at once taken possession of by the United States and was used and occupied during the balance of that year, 1865, and part of 1866, by the United States as a part of Fort Pickering, a military garrison of said Government, this lot being inside of said fort, and after
80 that was held, used, and occupied by the United States until the 2d day of June, 1877, at which time it was reconveyed to the original owner, Robert H. Glenn, by said government, and under whom this defendant claims title and possession. Said conveyance is hereto attached as Exhibit "A," and which redemption enures to the defendant's benefit, as he is advised.

He, in fact, paid the taxes, and effected said redemption, as will appear by receipt hereto attached as Exhibit B. Defendant further

answers, that said direct tax was levied for the support of the proper and legitimate ends of Government, and for governmental purposes; that the sale and purchase of the land, and the subse-
81 quent use, occupation, and final release and reconveyance of the same, were but steps, and necessary steps, in the collection of the Government revenue, and he submits and claims that so long as said lot was so owned and used by the United States it is not subject to assessment for taxes either by the State, county, or city, and that the attempt here by the State of Tennesse, the county of Shelby, and city of Memphis to so tax this lot was nugatory, and that said tax levies are void, and that this court should so decree and adjudicate, covering all the taxes claimed from 1864 to 1877, inclusive. Further, that the question of validity of said purchase and title in fee of the U. S. has been finally settled by an adjudication of the circuit court of district of West Tennessee, in a
82 case in which the United States was plaintiff and the owner defendant, and that the question of who was the original owner and entitled to redeem was settled by the United States in allowing Robert H. Glenn to redeem, as the law required the legal representatives of said Government to examine and determine who was so entitled to redeem as such owner.

He does not admit that any of the taxes claimed are a proper charge on his land, but requires, if legal, that it be strictly proven that the same are just, correct, that no illegal costs, interest, or other item is included, that the same are in every instance legally assessed, and in fact and equity due.

83 He relies further upon the presumption of payment *of* 16 years, as to all taxes due for longer than the time before he was made a party, and all other acts or statutes of limitation applicable to the case, and reserves the right to show if he can that any or all of said taxes have been paid, or are free — any legal or equitable return; in fact not due — are not a proper charge on his said property; and now, having fully answered, he prays, &c.

A. VAN BROCKLEN,
By his Sol., Geo. Gillham.

EXHIBIT A.

UNITED STATES OF AMERICA:

Certificate of Release.

84 Whereas on the 16th day of June, A. D. 1864, the following described tract, lot, or parcel of land, situated in the county of Shelby, in the State of Tennessee, and particularly described as follows, viz.:

Lot twenty one (21), block six (6), assessed to Scruggs and Wickersham, in 186–, fourteenth civil district (country), was sold for the unpaid tax charged thereon under an act entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," approved June 7th, 1862; and whereas Robert H. Glenn has produced satisfactory evidence that he is legally

entitled to redeem the above-described property, and that he has paid into the Treasury of the United States the amount of tax, penalty, costs, and interest required by an act entitled "An act to pro-
85 vide for the redemption and sale of lands held by the United States under the several acts levying direct taxes and for other purposes," approved June 8th, 1872, amounting to the sum of two dollars and seventy-five cents, the receipt whereof in full is hereby acknowledged and confessed:

Now, therefore, this is to certify that the property hereinbefore described is hereby henceforth discharged from all lien, charge, or claim by reason of said tax, penalties, interest, and cost.

GREEN B. RAUM,
Commissioner of Internal Revenue.
C. W. E.

Approved by me, at Washington, D. C., this 2d day of June 1877.

86 JOHN SHERMAN,
Secretary of the Treasury.

C. M.
D. L.
H. S. F.

EXHIBIT B.

Received from R. Van Brocklen twenty-three $\frac{45}{100}$ dollars on account [of] redemption of lots 12, block 7; lot 21, blk 6; lots 40, 41, 42, block [illegible] and lot 28, block 2, all in Fort Pickering, 14 civil district, Shelby county, Tenn.

823.45. W. MERRIMAN,
Deputy Collector.

January 30, 1877. Filed 1st day of Sept., 1884.

Deposition of C. Weatherford.

Chancery Court of Shelby county.

B. P. ANDERSON *v.* ELIZABETH VAN BROCKLEN *et al.*

87 *The Deposition of Cæsar Weatherford, State Agent and Back Tax Collector, in Answer to Interrogatories Filed herein on — day of ——, 1884.*

Cæsar Weatherford, State agent and back tax collector of Shelby county:

I have the custody of the books showing the taxes due on said property. I have examined said books, and attach hereto certificates showing the amount and date of said taxes, which taxes still remain due and unpaid, together with the condemnation fees and

abstract fees and interest, as shown by said certificates, which certificates I make a part of my deposition as answer to the questions propounded.

C. WEATHERFORD, *Ag't.*

88 Sworn to and subscribed before me Oct. 18, 1884.

J. M. BRADLEY, *D. C. & M.*

1163.

State Agent & Back Tax Collector.

Statement of taxes due on lots 6, 7, 8, 9, 10, 13, 14, 34, 35, 36, block No. 13, Fort Pickering; on the lots 6, 7, 8, 9, 10, 13, & 14 on west side of Fourth street; lots 3, 4, 35, & 36 on east side of Third street, in the 14th civil district and 10th wards, listed to A. S. Glenn, Scruggs, and Wickersham; A. H. Glenn, unknown owner; D. Van Brocklin, A. H. Glenn, heirs H. B. Brown.

	Year.	Page.	Original value.	Reduced value.	Size.	State tax & civil distribution.	County taxes.	Clerk fee.	Total tax	Interest from—
				Lots.						
	1865	90	800	6, 7, 8, & 14	Not given	6 00	2 00	.....	8 00	July 1, '66.
89	1866	90	1,000	6, 7, 8, & 14	"	7 75	6 50	.....	14 25	July 1, '67.
	1866	90	100	Lot 14 in lots 7, 8, 13, 14, 15, 16, 17, 18, 26, 27, 28, & 35, value $1,100. Lots 6 to 10.	.....	38	65	.....	1 03	July 1, '70.
	1867	90	2,000	14, 34, 35, & 36	.....	13 00	18 00	.....	31 00	July 1, '68.
	1867	70	100	Lot 14 in lots 7, 8, 13, 14, 15, 16, 17, 18, 26, 27, 28, & 35, val., $1,200.	.....	45	90	.....	1 35	July 1, '68.
	1869	90	700	Lots 6 to 10, 13, and 14	170x132	8 20	9 10	.....	17 30	July 1, '70.
	1870	90	550	Lot 6 to 10, 13, & 14	175x132	5 30	5 00	.....	10 30	July 1, '71.
	1871	90	625	Lots 6 to 10, 13, & 14	175x132	7 75	10 49	.....	18 24	July 1, '72.
	1873	90	156	Lot 6	24X132	3 12	1 40	.....	4 52	July 1, '74.
	R. R.	130	156	6	24X132	.....	2 00	.....	2 00	July 1, '74.
	1874	90	155	6	24X132	3 12	1 33	.....	4 45	Jan'y 1, '76.
	1873	90	156	7	24X132	3 12	1 40	.....	4 52	July 1, '74.
90	R. R.	130	156	7	24X132	.....	2 00	.....	2 00	July 1, '74.
	1874	90	155	7	24X132	3 12	1 33	.....	4 45	Jan'y 1, '76.
	1873	90	156	8	24X132	3 12	1 40	.....	4 52	July 1, '74.
	R. R.	130	156	8	24X132	.....	2 00	.....	2 00	July 1, '74.
	1874	90	155	8	24X132	3 12	1 33	.....	4 45	Jan'y 1, '76.

State Agent & Back Tax Collector.

Statement of taxes due on lots Nos. 6, 7, 8, 9, 10, 13, 14, 34, 35, and 36, block No. 13, on the —— side of —— street, in the —— civil district and —— wards, listed to ——.

Years.	Page.	Original value.	Reduced value.	Size.	State tax & cons' demnation.	County taxes.	Clerk's fees.	Total tax.	Interest from—
	D		Lots.						
1872	90	100	9	24x112	4 40	65	.....	5 05	Jan'y 1, '73.
	C								
R. R.	26	100	9	24x112	.....	4 55	.....	4 55	July 1, '73.
1874	91	155	9	24x112	3 12	1 33	.....	4 45	Jan'y 1, '76.
	D								
1872	90	100	10	24x112	4 40	65	.....	5 05	July 1, '73.
	C								
R. R.	26	100	10	24x102	.....	4 55	.....	4 55	July 1, '73.
91 1874	91	"	10	24x112	3 10	1 20	.....	4 30	Jan'y 1, '76.
1872	91	"	13 & 14	50x112	4 80	1 30	.....	6 10	July 1, '73.
	C								
R. R.	26	200	13 & 14	50x112	.....	5 10	.....	5 10	July 1, '73.
1873	91	156	13	50x112	3 12	1 40	.....	4 52	July 1, '74.
R. R.	130	156	13	50x112	.....	2 96	.....	2 96	July 1, '74.
1874	91	155	13	50x112	3 12	1 33	.....	4 45	Jan'y 1, '76.
1873	91	156	14	50x112	3 12	1 40	.....	4 52	July 1, '74.
R. R.	130	156	34	50x112	.....	2 96	.....	2 96	Jan'y 1, '74.
1874	91	155	14	24x112	3 12	1 33	.....	4 45	Jan'y 1, '76.
1877	107	105	9 & 10	48x137	1 61	90	.....	2 51	July 1, '78.
1878	114	125	9 & 10	48x137	63	81	1 00	2 44	Jan'y 1, '80.
1877	108	150	6, 7, & 8	72x100	1 05	1 28	.....	2 33	July 1, '78.
1878	115	150	6, 7, & 8	72x100	65	98	1 00	2 63	Jan'y 1, '80.

State Agent and Back Tax Collector.

Statement of taxes due on lots Nos. 6, 7, 8, 9, 10, 13, 14, 34, 35, and 36, block No. 13 on the —— side of —— street, in the
92 —— and civil district, —— wards, listed to ——.

Year.	Page.	Original value.	Reduced value.	Size.	State tax & cond'm'n.	County taxes.	Clerk's fees.	Total tax.	Interest from—
			Lots.						
1877	108	105	13 & 14	48x100	1 00	90	.....	2 51	July 1, '78.
1878	115	125	13 & 14	48x100	63	81	1 00	2 44	July 1, '78.
1869	140	500	34, 35, & 36	72x142	5 80	3 90	.....	9 70	July 1, '70.
1878	104	200	36	24x100	80	1 95	1 00	3 75	Jan'y 1, '80.
1878	103	100	34 & 35	48x100	60	65	1 00	2 25	Jan'y 1, '80.
	D								
1871	241	100	6	24x112	4 40	65	.....	5 05	July 1, '73.
	C								
R. R.	46	1 1	6	24x112	.....	4 55	.....	4 55	July 1, '73.
1875	241	75	6	24x100	2 80	64	.....	3 44	July 1, '76.
1876	81	75	6	24x100	1 81	71	.....	2 52	Jan'y 1, '78.
	D								
1872	241	100	7	24x112	4 40	65	.....	5 05	July 1, '73.
	C								
R. R.	46	100	7	24x112	.....	4 55	.....	4 55	July 1, '73.
1875	241	75	7	24x100	2 80	64	.....	3 44	July 1, '76.
1876	81	75	7	24x100	1 81	71	.....	2 52	Jan'y 1, '78.
	D								
1872	241	100	8	24x112	4 40	65	.....	5 05	July 1, '73.
	C								
R. R.	46	100	8	24x112	.....	4 55	.....	4 55	July 1, '73.
1875	241	75	8	24x112	2 80	64	.....	3 44	July 1, '76.
1876	81	75	8	24x100	1 81	71	.....	2 52	Jan'y 1, '78.
93 1875	241	75	9	24x100	2 80	64	.....	3 44	July 1, '76.
1876	81	75	9	24x100	1 81	71	.....	2 52	Jan'y 1, '78.

State Agent and Back Tax Collector.

Statement of taxes due on lot- No. 6, 7, 8, 9, 10, 13, 14, 34, 35, & 36, block No. 13, on the —— side of —— street, in the —— civil district, and —— wards, listed to ——.

Year.	Page.	Original value.	Reduced value.	Size.	State tax and consideration.	County taxes.	Clerk's fees.	Total tax.	Interest from—
			Lot.						
1875	241	75	10	24x100	2 80	64	.....	3 44	July 1, '76.
1876	81	75	10	24x100	1 81	71	.....	2 52	Jan'y 1, '78.
1875	241	75	13	24x100	2 80	64	.....	3 44	July 1, '76.
1876	81	75	13	24x100	1 81	71	.....	2 52	Jan. 1, '78.
1875	241	75	14	24x100	2 80	64	.....	3 44	July 1, '76.
1876	81	75	14	24x100	1 81	71	.....	2 52	Jan'y 1, '78.
64 1879	244	34	7	24x100	01	32	1 00	1 75	Jan'y 1, '81.
1879	244	100	13 & 14	48x100	10	65	1 00	1 75	Jan. 1, '81.
1879	243	100	9 & 10	48x137	10	65	1 00	1 75	Jan. 1, '81.
1879	244	525	36	24x100	23	146	1 00	2 69	Jan. 1, '81.
1879	226	75	34 & 35	48x100	07	49	1 00	1 56	Jan. 1, '81.
1880	124	75	34 & 35	48x100	07	49	1 00	1 56	Jan'y 1, '82.
1880	127	225	36	24x100	23	146	1 00	1 75	Jan. 1, '82.
1880	130	100	10 & 9	48x100	10	65	1 00	1 75	Jan. 1, '82.
1880	118	64	6 & 7	48x100	07	44	1 00	1 51	Jan. 1, '82.
1880	118	64	6 & 7	48x100	07	44	1 00	1 51	Jan. 1, '82.
1880	118	100	13 & 14	48x100	10	65	1 00	1 75	Jan. 1, '82.
1881	635	75	34 & 35	48x100	23	41	1 00	1 69	July 1, '82.
1881	660	225	36	24x100	67	124	1 00	2 91	July 1, '82.

State Agent & Back Tax Collector.

Statement of taxes due on lot- No-. 6, 7, 8, 9, 10, 13, 14, 34, 35, & 36, block No. 13, on the side of street in the —— civil district, and —— wards, listed to ——.

95 Year.	Page.	Original value.	Reduced value.	Size.	State tax & consideration.	County taxes.	Clerk's fees.	Total tax.	Interest from—
			Lot.						
1881	721	100	9 & 10	48x137	30	55	1 00	1 85	July 1, '82.
1881	721	100	6, 7, 8	72x100	30	55	1 00	1 85	July 1, '82.
1881	721	200	13, 14	48x100	60	1 10	1 00	2 70	July 1, '82.
Abstract fee on lots 6, 7, 8, 9, 10, 13, 14, 34, 35, & 36	.....	.....	.....	.....	.....	.....	.....	7 50	

State Agent & Back Tax Collector.

Statement on taxes due on lot No. 5, block No. 31, Fort Pickering, on the north side of Jackson street, in the 14th civil district and 10th wards, listed to A. H. Glenn, heirs.

Year.	Page.	Original value.	Reduced value.	Size.	State tax A condemnation fund.	County tax.	Clerk's fees.	Total tax.	Interest from—
96									
1865	91	500		Not given	5 25	1 25	.....	6 50	July 1, '66.
1866	91	500		"	5 87	1 25	.....	6 12	July 1, '67.
1867	91	500		"	6 25	4 50	.....	10 75	July 1, 1868.
Abstract fee							75	75	

State Agent & Back Tax Collector.

Statement of taxes due on lot No. 21, block No. 6, Fort Pickering, on the south side of Broadway street, in the 14 civil district and 10th wards, listed to Scruggs & Wickersham in 1867 & 1868; to A. H. Glenn, heir, 1869 to 1874, inclusive; to R. Van Brocklen for 1875, 1876, and 1877.

Year.	Page.	Original value.	Reduced value.	Size.	State tax A condemnation fund.	County tax.	Clerk's fees.	Total tax.	Interest from—
97									
1867	7	125	Lot 21, in lots 5, 6, 7, 11, 17, 18, 20, 21; value, $800.						
			Lot 21 in this bill		4 56	1 12	.....	5 68	July 1, '68.
1868	102	100		(5)166	4 60	1 20	.....	5 80	July 1, '69.
1869	91	100		25x160	4 60	1 20	.....	5 80	July 1, '70.
1870	91	100		25x116	4 20	88	.....	5 08	July 1, '71.
	A								
1871	91	100		25x116	4 40	1 88	.....	6 28	July 1, '72.
	D								
1872	91	80		25x116	4 32	52	.....	4 84	July 1, '73.
	C								
R. R	226	80		25x116		4 44	.....	4 44	July 1, '73.
1873	91	125		25x116	3 00	1 13	.....	4 13	July 1, '74.
R. R	139	125		25x116		2 88	.....	2 88	July 1, '75.
1874	91	125		25x116	3 00	1 08	.....	4 08	July 1, '76.
1875	310	200		25x118	3 50	1 70	.....	5 20	July 1, '76.
1876	84	200		25x118	2 50	1 80	.....	4 30	July 1, '78.
1877	108	140		25x118	1 64	1 10	.....	2 84	July 1, '78.
Abstract fee							75		

Tax Sale Certificate No. 335.

This is to certify that at a sale of lands for unpaid taxes under a- by virtue of an act entitled "An act for the collection of district taxes in insurrectionary districts within the United States, and for other purposes," and the act amending the same, held, pursuant to notice, at Memphis, in the county of Shelby, in the State of Tennessee, on the sixteenth day of June, A. D. 1864, the tract or parcel of land hereinafter described, situate in the county of Shelby, and
State aforesaid; and described as follows, to wit: Lots seven
99 (7), eight (8), thirteen (13), fourteen (14), fifteen (15), seventeen (17), twenty (20), twenty-seven (27), twenty-eight (28), block thirteen (13), assessed to Scruggs and Wickersham in 1860, fourteenth civil district, "county," was sold and struck off to the United States of America for the sum of fourteen dollars, they being the highest bidder, and that being the highest sum bidden for the same, the receipt of which said sum in full is hereby acknowledged and confessed.

Given under our hand at Memphis this 16th day of June, A. D. 1864.

E. P. FERRY,
JOHN B. ROGERS,
DELANO T. SMITH,
Commissioners.

Tax Sale Certificate No. 329.

100 This is to certify that at a sale of lands for unpaid taxes under and by virtue of an act entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," and the act amending the same, held, pursuant to notice, at Memphis, in the county of Shelby, in the State of Tennessee, on the sixteenth day of June, A. D. 186-, the tract or parcel of land hereinafter described, situate in the county of Shelby and State aforesaid, and described as follows, to wit: Lots five (5), fifteen (15), sixteen (16), and twenty-one (21), twenty-two (22), twenty-nine (29), thirty (30), and thirty-one (31), block six (6), assessed to Scruggs & Wickershaw in 1860, fourteenth civil
101 district (country), was sold and struck off to the United States of America for the sum of twelve dollars, they being the highest bidder and that being the highest sum bidden for the same, the receipt of which said sum in full is hereby acknowledged and confessed.

Given under our hands, at Memphis, this sixteenth day of June, A. D. 1864.

E. P. FERRY,
M. B. ROGERS,
DELANO T. SMITH,
Commissioners.

We agree that the two foregoing copies are true copies of the original tax sale certificates issued by the commissioners to the United

States for lots 13, 14, block 13, and lot 21, block 6, Fort Pick-
102 ering, Shelby county, Tenn., and that the same may be used in place and stead of the original, so far as material in case of Anderson, com'r, *v.* Van Brocklen No. 1163, R. D., chancery court, Shelby county, Tennessee, Jan'y 20, 1885.

GEO. GILLHAM,
Sol. for Def'ts.
LEE THORTON,
Sol. for State & County.

Filed Feb'y 10th, 1885.

Whereas the property hereinafter mentioned and described was sold by the United States for unpaid taxes at a public sale held in Memphis, in the county of Shelby and State of Tennessee, in
103 the year 1864, under and by virtue of an act entitled An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes, approved June 7th, 1862; and whereas the said property was then and there declared purchased by the United States direct tax commissioners for the district of Tennessee, who issued their certificate of sale therefor; and whereas the said land has not been redeemed in accordance with the terms of the act of June 7th, 1862, above mentioned, nor of the acts amendatory thereof, nor the act of 8th June, 1872, entitled an Act to provide for the redemption and sale of lands held by the United States under the several acts levying direct taxes, and for other purposes, as amended;
104 and whereas under the authority conferred upon me by section 4 of the act of June 8th, 1872, above referred to, and section 26 of the act approved February 8th, 1875, entitled An act to amend existing customs and internal revenue laws, and for other purposes; and under the direction of the Secretary of the Treasury the same was ordered to be sold at public auction, and was so sold at public auction at city of Memphis, in the county of Shelby and State of Tennessee, on the second day of May, 1875, to J. F. Stacy, for the sum of seventy-five dollars, he, the said J. F. Stacy, being the highest bidder therefor, and having thereupon received certificates of land sale, Nos. 111, 112, and 138, for the same: Now, there-
105 fore, know all men by these presents that I, Green B. Raum, Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and by virtue of the authority conferred upon me by section 4 of said act of June 8th, 1872, and in consideration of said sum of seventy-five dollars to the United States well and truly paid, the receipt whereof is hereby acknowledged and confessed, have granted, bargained, sold, and by these presents, in my official capacity, do give, grant, bargain, sell, and convey and confirm, unto the said J. F. Stacy, his heirs and assigns, all right, title, and interest which the United States had at the time of the last-mentioned sale in the premises sold as aforesaid and described as
106 follows, to wit: Lot (13) thirteen, block (13) thirteen, certificate No. 111; amount bid, $26.00; lot (14) fourteen, block (13) thirteen, certificate No. 112; amount bid, $28.00; lot (40) forty,

block (15) fifteen, certificate 138; amount bid, $21.00; all in fourteenth civil district, country, Fort Pickering, Shelby county, Tennessee.

To have and to hold the same free from all claims on the part of the United States, and all privileges and appurtenances thereof belonging to the said grantee, his heirs and assigns forever.

In witness whereof I have hereto set my hand and seal this 16th day of July, one thousand eight hundred and seventy-eight.

GREEN B. RAUM,
Commissioner of Internal Revenue.

107

Signed, sealed, and delivered in presence of us—
H. CENFUST CLARK.
W. J. CLARK.

Approved this 19th day of July, A. D. 1878. Witness my hand and official seal.

[SEAL.] JOHN SHERMAN,
Secretary of the Treasury.

UNITED STATES OF AMERICA, *District of Columbia,* } *ss:*

Before me, James T. K. Plant, a commissioner of the State of Tennessee, appointed, qualified, commissioned, and resident in
108 the District of Columbia, to take probate of deeds, &c., for registration and use in State of Tennessee, personally appeared Green B. Raum, Commissioner of Internal Revenue, the within named grantor, with whom I am personally acquainted, and who, as Commissioner aforesaid, acknowledged that he executed the within and annexed deed for the purposes therein contained. Witness my hand and seal of office this 24th day of July, A. D. 1878.

[SEAL.] JAS. T. K. PLANT,
Commissioner of the State of Tennessee.

STATE OF TENNESSEE, *Shelby County:*

Filed December 8th, 1883, at 3 o'clock p. m., and noted in note book No. 10, p. 138, and was recorded same day.

109 JOHN F. McCALLUM, *Register.*
W. S. POPE, *Deputy Register.*

We agree that this is correct copy of deed recorded in book 150, p. 275, register's office, Shelby county, Tennessee, from Green B. Raum, Commissioner of Internal Revenue, to J. F. Stacy, and the same may be read in evidence, if material, on part of defendants, the original being lost or mislaid.

G. GILLHAN,
Sol. for Def'ts.
LEE THORNTON,
For State & Co.

Filed Feb'y 10th, 1885.

110 *Deposition of Delas Van Brocklen, Taken by Consent on Part of the Defendants.*

B. P. Anderson, Com., }
v. } 1163. R. D.
Elizabeth Van Brocklen *et al.* }

Int. 1. What relation are you to def't, R. Van Brocklen, and how long have you known the lots in question here, being lots 13 & 14, block 13, and lot 21, block 6, Fort Pickering, in this county?

Ans. I am a son of R. Van Brocklen, and have known all of those lots since about 1870.

Int. 2. When did your father buy these lots, and from whom, if you know?

111 Ans. He bought them from Robert H. Glenn, some time prior to the year 1870; I know he had fully paid for them at that time.

Int. 3. Who was in possession of them in 1870, and since that time?

Ans. My father was in possession of them until the United States sued him and recovered them from him; the Government held them until father redeemed lot 21, block 6, in June, 1877, and he held lots 13, 14, block 13, until *he* was sold by the Government, in July, 1878, at which sale my brother-in-law, J. F. Stacy, became the purchaser, and he has held them since then; one B. R. Mister is now in possession of the same, claiming under said Stacy.

112 Int. 4. Who has been in the actual possession of lot 21, block 6, since June, 1877, and in what way and under what claim of title?

Ans. Father has, by his tenants, been in the actual possession of the lot ever since June, 1877. It has been all enclosed all the time. He claimed it under his purchase and conveyance from Robert H. Glenn and the redemption from the Government made in name of Glenn in June, 1877.

Int. 5. How are these lots located with reference to the fort; are they inside or outside of the walls of the fort which was occupied during the late war of the rebellion by the United States army, and known as For- Pickering?

113 Ans. Lot 21, block 6, is inside the fortifications, and the other lots just outside the same, on the lines of the fort proper.

Int. 6. Who furnished the mon-y to redeem lot 21, bl'k 6, from the Government?

Ans. My father did.

X Int. 1. Do you know of your own knowledge that the lot 21 was used by the Government and occupied as a fort?

Ans. No, sir; I do not. I was not here at the time.

X Int. 2. How much did your father pay the Government to redeem said lot?

Ans. That I could not tell you.

114 X Int. 3. Can you produce the certificate of redemption? If so, make it a part of this deposition.

Ans. I will make it a part, marked Exhibit "A."

X Int. 4. Please file with this deposition the certificate and deed showing the purchase of lots 13 & 14, block 13.

Ans. I will, as far as I can, marked Exhibit "B."

X Int. 5. Is it not a fact that what you testified in your direct examination you learned from what was told you and from the papers you read?

Ans. I was here at the time the sale was made, but not at the time the Government occupied the lots.

And further deponent saith not.

115 Signature and oath waived.

GEO. GILLHAM,
Att'y for Def'ts.
LEE THORNTON,
For State & Co.

Filed Feb'y 19th, 1885.

Record in No. 1346.

Summons.

JOHN DAE, *ex dem.* U. S. *v.* R. VAN BROCKLEN.

Issued April 23d, 1872.

H. E. ANDREWS, *Clerk.*

Return.

I certify that the within summons, declaration, and notice in ejectment came to hand 25th April, 1872, and that on the 25th day
116 of April, 1872, I did personally serve R. Van Brocklen, defendant, in possession of the premises mentioned in the within summons and declaration in ejectment, with a true copy of the said summons, declaration, and notice thereunder written; and I further certify that at the same time I read over said summons, declaration, and notice to the said R. Van Brocklen I explained to him the intent and meaning of the same and of said service.

L. B. EATON,
U. S. Marshall.
By C. F. WILLARD, *Deputy.*

The President of the United States of America to the marshal of the district of West Tennessee, Greeting:

117 You are hereby commanded to summon R. Van Brocklen, a citizen of the State of Tennessee, if he is to be found in your district, to appear before the judge of the circuit court of the United States, in the sixth circuit, for the district of West Tennessee, at Memphis, on the 4th Monday in May next, and then and there to answer John Doe of a plea wherefore he broke and entered the close of the

said John Doe and ejected him, to his damage five hundred dollars. Herein fail not, and have you then and there this writ.

Witness the Hon. Salomon P. Chase, Chief Justice of the Supreme Court of the United States, this 4th Monday in November, in
118 the year 1871, and of the Independence of the United States 96th.

H. E. ANDREWS, *Clerk.*

Declaration.

Declaration and notice in ejectment filed April 23d, 1872.

H. E. HUDSON,
U. S. Attorney.

Return.

I certify that the within summons, declaration, and notice in ejectment came to hand 2[illegible]h April, 1872, and that on the 25th day of April, 1872, I did, personally, serve R. Van Brocklen, tenant, in possession of the premises mentioned in the within summons and declaration in ejectment, with a true copy of the said summons, declaration, and notice thereunder written; and I further certify that
119 at the same time I read over the said summons, declaration, and notice to the said R. Van Brocklen, and explained to him the intent and meaning of the same and of said service.

L. B. CLATON,
U. S. Marshal.
By C. F. WILLARD, *Deputy.*

UNITED STATES OF AMERICA, *District of West Tennessee:*

In the Circuit Court of the United States in and for the Sixth Circuit thereof, District of West Tennessee. May Term, 1872.

Richard Roe, a citizen of the district of West Tennessee, was summoned to answer John Doe, a citizen of the State of New York, of a plea wherefore the said Richard Roe with force and arms
120 entered into a certain tract or parcel of land as follows, to wit: Lots six (6), seven (7), eight (8), thirteen (13), and fourteen (14), in block thirteen (13), with the appurtenances, situate in Fort Pickering, 14th civil district, in the county of Shelby, in said district of West Tennessee, which the United States of America had demised to the said John Doe for a term which is not yet expired, and ejected him from his said farm and leasehold, and other wrongs to the said John Doe there did to the great damage of the said John Doe; and thereupon the said John Doe by A. E. Hudson, his attorney and district attorney of the United States for the district of West Tennessee, complains that whereas the said United States of America, on the 1st day of July, 1866, at the county of Shelby aforesaid, in the district aforesaid, had demised the said tenements,
121 with the appurtenances, to the said John Doe; to have and to hold the same unto the said John Doe and his assigns from the thirtieth day of June, 1866, then last past, for and during and unto the full end

and term of ten years from then next ensuing and fully to complete and ended. By virtue of which said demise the said John Doe entered in the said tenement, with the appurtenances, and became and was thereof possessed for the said term so to him thereof granted.

And the said John Doe, being so thereof possessed, the said
122 Richard Roe afterwards, to wit, on the 1st day of August, 1866, with force and arms, etc., entered into the said tenements, with the appurtenances, which the said United States of America had demised to the said John Doe in manner and for the time aforesaid, which is not yet expired, and ejected the said John Doe from his farm and leasehold, and other wrongs to the said John Doe then and there did, to the great damage of the said John Doe. Wherefore the said John Doe saith that he is injured and hath sustained damage to the value of five hundred dollars, and there[fore] he brings his suit, &c.

H. E. HUDSON,
United States Attorney.

123 Mr. R. Van Brocklen:

I am informed that you are in possession of or claim a title to the premises in this declaration of ejectment mentioned, or some part thereof, and I, being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear before the judges of the circuit court of the United States for the sixth circuit thereof, district of West Tennessee, at a term of said court to be held at the Federal court-rooms on the 4th Monday in May next, and then and there, by a rule of the same court, to cause yourself to be made defendant in my stead; otherwise I shall suffer judgment therein to be entered against me by default, and
124 you will be turned out of possession.

This 23- day of April, 1872.

Yours, &c.,

RICHARD ROE.

Bond. Filed Dec. 18, 1872. *H. E. Andrews, Clerk.*

Know all men by these presents, that we, Royal Van Brocklen, as principal, and Geo. Gillham, as surety, are held and firm- bound unto the *the* United States of America in the sum of two hundred and fifty dollars.

Signed with our hands and sealed with our seals this 18th day of December, 1872.

The condition of this bond is such that whereas a certain suit in ejectment has been commenced and is now pend-
125 ing in the circuit court of the United States for the district of West Tennessee in the name of John Doe, on demise of the United States against Richard Roe; and whereas the said Royal Van Brocklin has, with the assent of the court, entered into the common rule and been admitted as a defendant therein:

Now, therefore, if the said Royal Van Brocklin shall pay and satisfy all costs that may be adjudged against him on failure of the said Royal Van Brocklin, defendant, to defend said suit with effect,

then this obligation to be void; otherwise, of full force and effect. And we agree that judgment on motion without notice may be rendered against us for the same.

ROYAL VAN BROCKLEN. [SEAL.]
126 By GEO. GILLHAM, *His Att'y.*
GEO. GILLHAM. [SEAL.]

Taken and acknowledged before me this 7th day of December, 1872.

JOHN B. CLOUGH,
U. S. Commissioner.

Plea. Filed December 18th, 1872. *Geo. Gillham, Att'y for Def't.*

United States Circuit Court, Sixth Circuit, District West Tennessee. May Term, 1872.

JOHN DOE *ex d. &c.* THE UNITED STATES }
v. } No. 1346.
RICHARD ROE and ROYAL VAN BROCKLIN. }

127 And the said Royal Van Brocklen, by his attorney, Geo. Gillham, comes and defends the force and injury, when, etc., and says that he is not guilty of the said supposed trespass and ejectment above laid to his charge, or of any part thereof, in manner and form as the said John Doe hath above thereof complained against him, and of this he, the said Royal Van Brocklen, puts himself upon the country.

GEO. GILLHAM,
Att'y for Def'ts.

And as to the said plea of the said defendant by him above pleaded, wherein he puts himself upon the country, the said
128 plaintiff, by W. W. Murray, district attorney for the said district, doth the like.

W. W. MURRAY,
District Attorney.

Judgment. Dated January 11, 1877. *Filed February* 10, 1883. *S. I. McDowell, Clerk & Master.*

This day came the district attorney, on behalf of the United States, and came also the defendant, R. Van Brocklin, by attorney, and on motion of said district attorney it was ordered that a jury do come, and thereupon came a jury of good and lawful men, to wit, H. Susell, D. B. Mally, C. B. Church, T. A. Hamilton,
129 E. E. Toby, W. S. Pickett, T. W. Flynn, R. V. Budenburgh, A. M. Janish, W. B. Weisiger, and A. K. Stakeley, and C. B. Clemmans, who, being duly elected, tried, and sworn, well and truly to try the issues joined herein, and a true verdict render, having heard the testimony, listened to the arguments of counsel, and received the charge of the court as to the questions of law arising in said suit, upon their oaths, do say that they find said issues in favor of the plaintiff, and that the said R. Van Brocklen is guilty of un-

lawfully withholding from the plaintiff, in manner and form as in said declaration alleged, the possession of the premises in said declaration described, the same being the following lots, to
130 wit, lots 6 and 7 and 8 and 13 and 14, in block 13, with the appurtenances thereto belonging, and situated in Fort Pickering, in 14th civil district of Shelby county and the State of Tennessee, and that the United States is well entitled to hold the same in fee, and they assess the damage of the plaintiff herein at the sum of one cent.

It is therefore considered by the court that the United States recover against the defendant, R. Van. Brocklin, said damages, amounting to the sum of one cent, as assessed by said jury in said verdict, and the costs of this suit, for which let execution issue. And hereupon the said district attorney prays the court for a writ of
131 possession to cause the United States to have possession of said tracts or parcels of land, which writ is granted; but the clerk is hereby directed not to issue said writ of possession till the 3d day of February next. (Minute book 4, p. 567).

Writ of possession issued 26th day of March, 1877, and came to hand 26th day of March, 1877, and executed by placing R. F. Patterson, collector of internal revenue, and agent of the United States, in quiet and peaceable possession of the within-named premises this 29th day of March, 1877.

L. B. EATON,
U. S. Marshall.
W. S. PARK, *Deputy.*

132 Returned and filed the 13th day of April, 1877.
H. E. ANDREWS, *Clerk.*
L. H. PILLSBERRY, *Deputy.*

MEMPHIS, *March* 30, 1877.

Received on said date from L. B. Eaton, U. S. marshall D. W. Tennessee, full and complete possession of the within-named premises.

R. F. PATTERSON,
Collector Internal Rev.

UNITED STATES OF AMERICA, *Western District of Tennessee:*

In the Circuit Court of the United States. Within and for the Sixth Judicial District.

The President of the United States to the marshall of said
133 western district of Tennessee, Greeting:

Whereas in the circuit court of the United States for said district, on the 11th day of January, 1877, the same being one of the days of the November term, 1876, at Memphis, in said district, by the judgment of said court, John Doe recovered against Richard Roe and R. Van Brocklen the possession of a certain tract of land, as follows: Lots 6, 7, 8, 13 and 14, in block 13, with the appurtenances,

situate in Fort Pickering, 14th civil district, in the county of Shelby, in the State of Tennessee, in said district, which the United States, on, to wit, the 1st day of July, 1866, had demised to said John Doe for a term not yet expired, whereof the said R. Van Brock-
134 len is convicted, as appears to us of record: Thereupon you are hereby commanded that without delay you cause the said United States to have possession of the said tracts, of land with the appurtenances; and in what manner you shall have executed this writ make appear to us at a court to be holden at said Memphis on the 4th Monday, 1877. Herein fail not, and have you then and there this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, and seal of said circuit court, this 26th day of March, A. D. 1877.

HORACE E. ANDREWS, *Clerk.*

135 L. H. PILLSBERRY, *D. C.*

Record in No. 1243.

Summons. Issued April 18th 1872. *H. E. Andrews, Clerk.*

THE UNITED STATES *v.* R. VAN BROCKLEN.

Summons.

The President of the United States of America to the marshall of the district of West Tennessee, Greeting:

You are hereby commanded to summon R. Van Brocklen, a citizen of the State of Tennessee, if he is to be found within your district, to appear before the judge of the circuit court of the
136 United States, in the sixth circuit, for the district of West Tennessee, at Memphis, on the 4th Monday in May next, and then and there to answer John Doe of a plea wherefore he broke and entered the close of the said John Doe and ejected him, to his damage five hundred dollars.

Herein fail not and have you then and there this writ.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 4th Monday in November, in the year 1871, and of the independence of the United States the ninety-sixth.

H. E. ANDREWS, *Clerk.*

137 Endorsed as follows: I certify that the within summons, declaration, and notice in ejectment came to hand April 18th, 1872, and that on the 24th day of April, 1872, I did personally serve R. Van Brocklen, tenant in possession of the premises mentioned in the within summons and declaration of ejectment, with a true copy of the said summons, declaration, and notice thereunder written; and I further certify that at the same time I read over the said summons, declaration, and notice to the said R. Van Brocklen, and explained to him the intent and meaning of the same and of said service.

L. B. EATON,
U. S. Marshall.

138 By O. B. PICKET, *Deputy.*

Declaration and Notice.

UNITED STATES OF AMERICA, *District of West Tennessee:*

In the Circuit Court of the United States in and for the Sixth Circuit thereof, District of West Tennessee. May Term, 1872.

Richard Roe, a citizen of the district of West Tennessee, was summoned to answer John Doe, a citizen of the State of New York, of a plea wherefore the said Richard Roe, with force and arms, etc., entered into a certain tract and parcel of land as follows: Lot
139 twenty-one (21), in block six (6), with the appurtenances, situate in Fort Pickering, 14th civil district, in the county of Shelby, in said district of West Tennessee, which the United States of America had demised to the said John Doe for a term which is not yet expired, and ejected him from this said farm and leasehold, and other wrongs to the said John Doe, then did to the great damage of the said John Doe; and thereupon the said John Doe, by H. E. Hudson, his attorney, and district attorney of the United States for the district of West Tennessee, complains that whereas the said United States of America, on the first day of July, 1866, at the county of Shelby aforesaid, in the district aforesaid, had
140 demised the said tenements, with the appurtenances, to the said John Doe, to have and to hold the same to the said John Doe and his assigns from the thirtieth day of June, 1866, then last past, for and during and unto the full end and term of ten years from then next ensuing, and fully to be complete and ended, by virtue of which said demise the said John Doe entered into the said tenements, with the appurtenances, and became and was thereof possessed for the said term, was to him thereof granted, and the said John Doe being so thereof possessed, the said Richard Roe afterwards, to wit, on the 1st day of August, 1866, with force
141 and arms, etc., entered into the said tenements, with the appurtenances, which the said United States of America had demised to the said John Doe, in manner and for the term aforesaid, which is not yet expired, and ejected the said John Doe from his farm and leasehold, and other wrongs to the said John Doe then and there did, to the great damage of the said John Doe, wherefore the said John Doe saith that he is injured and hath sustained damage to the value of five hundred dollars, and therefore brings his suit, etc.

H. E. HUDSON,
United States Att'y.

Mr. R. Van Brocklin:

142 I am informed that you are in possession of or claim a title to the premises in this declaration of ejectment mentioned, or some part thereof, and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear before the judges of the circuit court of the United States for the sixth circuit thereof, district of West Tennessee, at a term of said court to be held at the Federal court-rooms

on the 4th Monday in May next, and then and there, by a rule of the same court, to cause yourself to be made defendant in my stead; otherwise I shall suffer judgment therein to be entered against
143 me by default, and you will be turned out of possession.

This 16th day of April, 1872.

Yours, &c. RICHARD ROE.

Said declaration filed April 16th, 1872, and endorsed as follows:

I certify that the within summons, declaration, and notice in ejectment came to hand April 16th, 1872, and that on the 24th day of April, 1872, I did personally serve R. Van Brocklen, tenant in possession of the premises mentioned in the within summons and declaration in ejectment, with a true copy of the said summons, declaration, and notice thereunder written. And I further certify that at the same time I read over the said summons, declaration, and
144 notice to the said R. Van Brocklen, and explained to him the intent and meaning of the same and of said service.

L. B. EATON,
U. S. Marshall.
By O. B. PICKETT,
Deputy Marshall.

Plea.

United States Circuit Court, Sixth — District of West Tennessee. May Term, 1872.

JOHN DOE, *ex dem.* the United States
vs. No. 1243.
RICHARD ROE and R. VAN BROCKLEN.

145 And comes the said defendant R. Van Brocklen, by Geo. Gillham, his attorney, and defends the force and inquiry when etc., and says that he is not guilty of the supposed trespass and ejectment above laid to his charge, or of any part thereof, in manner and form as the said John Doe hath above thereof complained against him, and of this he, the said R. Van Brocklen, puts himself upon the country.

GEO. GILLHAM,
Att'y for Def't.

And as to the said plea of the defendant, whereof he puts himself upon the country the said plaintiff, by W. W. Murray, *their* attorney for said district, doth the like.

146 W. W. MURRAY,
U. S. Attorney.

The foregoing plea is endorsed as filed May 30th, 1877.

Judgment.

THURSDAY, *January* 11*th*, 1877.

This day came again the parties, by their attorneys, and also the jury heretofore impannelled in this cause, and thereupon, the argument of counsel being concluded, the court charged the jury as to

law of the case, and thereupon said jury upon their oaths do say they find for the United States; and that the said defendant is guilty of unlawfully withholding from the plaintiff in the
147 declaration described, the same being the following tract or parcel of land, to wit: Lot 21, in block 6, with the appurtenances thereto belonging, and all situated in Fort Pickering, in the 14th civil district of Shelby county, in the State of Tennesse, and that the United States is well entitled to hold the same in fee, and they assess the damages of the said plaintiff herein at the sum of one cent. It is, therefore, considered by the court that the United States do recover against the said defendant, R. Van Brocklen, the possession of the said tract or parcel of land according to the said verdict and the costs of this suit, for which let execution issue.
148 And hereupon the said district attorney prays the court for a writ of possession to cause the United States to have possession of the said tract or parcel of land, which said writ is granted, but the clerk is directed not to issue said writ of possession until the 3rd day of February next. Minute-book 4, p. 558.

We agree that the above is [a]correct copy of the proceedings had in the ejectment cases in circuit court for district of West Tennessee involving lots 13 & 14, block 13, and lot 21, block 6, Fort Pickering the same here in question, and that this copy may be used in evidence in the case of Anderson, com'r, *v.* Eliz. Van Brocklen *et als.*, No. 11631, R. D., in all respects the same as the originals or
149 duly certified copies.

This March 11th, 1885.

GEO. GILLHAM,
Sol. for Compl'ts.
LEE THORNTON,
For State & Co.

Filed March 13th, 1885.

S. I. McDOWELL, *C. & M.*

ANDERSON, Com'r,
v.
ELIZ. VAN BROCKLEN, & *als.* } 11631. R. D.

Clerk & Master:

In making transcript for Supreme Court in this case, copy only—

1. The original bill, but not its "exhibits."
150 2. Leave to file amended bill, filed Nov. 8, 1883.
3. The amended bill and its exhibits.
4. Petition of city of Memphis, by L. Lamb, receiver, filed January 24, 1884, and its "exhibits."
5. Order making J. F. Stacy party defendant, entered Aug. 19, '84.
6. Order making R. Van Brocklen party defendant, entered Aug. 25, 1884.
7. Answer of J. F. Stacy, filed Aug. 21, 1884.
8. Answer of R. Van Brocklen, filed September 1, 1884, and its "exhibits."
9. Deposition of C. Weatherford, filed Aug. 18, 1884, and its "exhibits."

10. Copy of U. S. tax sale. Certificates filed Feb'y 10, 1885.
151 11. Copy of two cases in U. S. court, filed 13 March, 1885.
12. Copy of deed to J. F. Stacy, filed February 10, 1885.
13. Deposition of D. Van Brocklen, February 10, 1885.

In case either party desire any other part of the record the- may also take it up.

March 16, '85.

GEO. GILLHAM,
Sol for Def't.
LEE THORNTON,
For Compl'ts.

Filed March 31, 1885.

Deed.

Whereas the property hereinafter mentioned and described was sold by the United States for unpaid taxes at a public sale in
152 Memphis, in the county of Shelby and State of Tennessee, in the year 1864, under and by virtue of an act entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," approved June 7, 1862; and whereas the said property was then and there declared purchased by the United States *by the United States* direct tax commissioner for the district of Tennessee, who issued their certificates of sale thereior; and whereas the said land has not been redeemed in accordance with the terms of the act of June 7, 1862, above mentioned, nor of the acts amendatory thereof, nor the act of June 8, 1872, entitled "An act to provide for the redemption and
153 sale of lands held by the United States under the several acts levying direct taxes, and for other purposes," as amended, and whereas, under the authority conferred upon me by section 4 of the act of June 8, 1872, above referred to, and section 26 of the act approved February 8, 1875, entitled "An act to amend existing customs and internal revenue laws, and for other purposes," and under the direction of the Secretary of the Treasury the same was ordered to be sold at public auction, and was so sold at public auction, at the city of Memphis, in the county of Shelby and State of Tennessee, on the second day of May, 1878, to J. F. Stacy for the sum of seventy-five dollars, he, the said J. F. Stacy, being the
154 highest bidder therefor, and having thereupon received certificates of land sale Nos. 111, 112, and 138 for the same:

Now, therefore, know all men by these presents that I, Green B. Raum, Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and by virtue of the authority conferred upon me by section 4 of said act of 1872, and in consideration of said sum of seventy-five dollars to the United States well and truly paid, the receipt whereof is hereby acknowledged and confessed, have granted, bargained, sold, and by these presents, in my said official capacity, do give, grant, bargain, sell, convey, and con-
155 firm unto the said J. F. Stacey, his heirs and assigns, all right, title, and interest which the United States had at the time of the last-mentioned sale in the premises sold as aforesaid, and described as follows, to wit: Lot thirteen (13), block thirteen (13),

certificate No. 111; amount bid, $26.00; lot fourteen (14), block (13), certificate No. 112; amount bid, $28.00; lot forty (40), block 15, certificate No. 138; amount bid, $21.00; all in fourteenth civil district, country, Fort Pickering, Shelby county, Tennessee; to have and to hold the same free from any claim on the part of the United States, and all privileges and appurtenances thereto belonging, to the said grantee, his heirs and assigns, forever.

In witness whereof I have hereto set my hand and seal
156 this sixteenth day of July, one thousand eight hundred and seventy-eight.

GREEN B. RAUM,
Commissioner of Internal Revenue.

Signed, sealed, and delivered in presence of us—
H. CAMFEREST CLARK.
W. T. CLARK.

Approved the nineteenth day of July, A. D. 1878.
Witness my hand and official seal.
[SEAL.]

JOHN SHERMAN,
Secretary of the Treasury.
J. G. K.

UNITED STATES OF AMERICA, }
District of Columbia, } *ss:*

Before me, Joseph T. K. Plant, a commissioner of the State
157 of Tennessee, appointed, qualified, commissioned, and resident in the District of Columbia, to take probate of deeds, etc., for registration and use in the State of Tennessee, personally appeared Green B. Raum, Commissioner of Internal Revenue, the within-named grantor, with whom I am personally acquainted, and who is commissioner aforesaid, and acknowledged that he executed the within and annexed deed for the purposes therein contained.

[Seal of Commissioner, State of Tennessee.]

JOSEPH T. K. PLANT,
Commissioner of the State of Tennessee.

STATE OF TENNESSEE, *Shelby County:*

158 Filed December 8th, 1883, at 3 o'clock p. m., and noted in note-book No. 10, page 138, and was recorded same day.

JOHN F. McCALLUM, *Register.*
W. S. POPE, *D. R.*

We agree that this is [a] correct copy of deed of Green B. Raum, com'r, to J. F. Stacy for lots 13 & 14, block 13, Fort Pick., Shelby county, Tenn., and that it may be used in case of Anderson, Com'r, *vs.* Eliz. Van Brocklin & *als.*, Nos. 1163, R. D., in all respects the same as the original.

February 10, 1885.

GEO. GILLHAM,
For Def'ts.
LEE THORNTON,
For Compl'ts.

Filed March 17, 1885.

159 B. P. ANDERSON, Com'r,)
v.) No. 1163. R. D.
ELIZABETH VAN BROCKLIN.)

This cause coming on for hearing this 19th day of March, 1885, before the Hon. W. W. McDowell, chancellor, upon the pleadings and proof, and the same having been heard and fully by the court understood, it is ordered, adjudged, and decreed that lots 13 and 14, block 13, Fort Pickering, described in the pleadings and proofs, were and are exempt from taxation for any purpose upon part of the State of Tennessee, county of Shelby, or city of Memphis, from the 16th day of June, 1864, to the 1st day of May, 1878, during all of which time said lots were the property of the United States; and that the taxes
160 assessed upon the same by the said State, county, or city for the years 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, and 1878 for any or all purposes are illegal and void, and that the same constitute no lien upon said lots. Complainants are directed and required to cause the proper entries to be made upon the proper tax books, to the end that the said invalidity may appear on the same; and farther, the complainants pay the costs of this cause, made as to these lots, for the years above named, for which execution will issue as at law.

It is further ordered, adjudged, and decreed that the taxes
161 which appear by the pleadings and proof to have been assessed respectively by the State of Tennessee, county of Shelby, or city of Memphis on lots 21, block 6, Fort Pickering, described in the pleadings, for the period from June 16, 1864, to June 2, 1877, are in all respects valid, by reason of the fact that the said lot was redeemed from the United States on June 2d, 1877, from the sale made on June 16, 1864, to the United States for direct taxes. It is, therefore, ordered that this cause be referred to the clerk & master to report the amount of taxes due on said lot to said State, county, and city, or its receiver, and that the defendant, R. Van Brocklen, pay all the costs of this cause made as to said lot 21, block 6.

162 From so much of this decree as adjudged *the* the taxes assessed on lots 13 & 14, block 13, Fort Pickering, for years from 1865 to 1878, inclusive, by the State of Tennessee, county of Shelby or city of Memphis, *or* illegal or void the said State, county, and city, by its receiver, L. Lamb, pray an appeal to the next term of the supreme court, Tennessee, to be held at Jackson, on the 1st Monday of April, 1885.

And from so much of said decree as adjudges that the taxes assessed by the State of Tennessee, the county of Shelby, or the city of Memphis, from June 16th, 1864, to June 2, 1877, on lot 21, block 6, Fort Pickering, are legal and constitute valid liens on the
163 same, the defendant, R. Van Brocklen, prays an appeal to the next term of the supreme court of Tennessee, to be held at Jackson on first Monday of April, 1885.

Which appeals are to complainants and defendants by the court granted upon the execution of bond for costs, as required by law

in such cases by the defendants, but the State, county, and city of Memphis are not required to give bond for costs.

Entered March 17, 1885.

Agreement as to Amended Bill.

B. P. ANDERSON, Rev. Com., *v.* ELIZABETH VAN BROCKLEN *et als.* } 1163. R. D.

164 In this cause it is agreed by solicitors for defendants and complainants that the amended bill required to be filed by act of 1882, bringing taxes accrued since filing original bill in this cause, is lost; that it was filed on the 15th day of December, 1883; that the amended bill was in the usual form, and its allegations properly presented the case of the State and county, and that the same taxes, years, amounts, &c., were claimed in said bill, as are shown in the proof herein. And it is further agreed that no question will be made on account of the absence of said bill from the record.

LEE THORNTON,
For State & County.
GEO. GILLHAM,
Sol. for Def'ts.

165 Filed March 31st, 1885.

Appeal Bond.

We, R. Van Brocklen, appellant and surety, Delos Van Brocklen, and G. Gillham, acknowledge ourselves indebted to the State of Tennessee, for its own use, etc., appellees, in the sum of two hundred and fifty dollars, to be void if the said R. Van Brocklen, above named as appellant, who has prayed for and obtained an appeal from the decree of the chancery court of Shelby county in a case in which B. P. Anderson, commissioner of revenue, &c., is complainant, and Eliza Van Brocklen *et al.* are defendant-, to the next term of the supreme court of Tennessee for the district of West Tennessee, to be
166 held at Jackson, Madison county, on the first Monday in April next, shall pay all such costs as shall be awarded against him by said supreme court.

This 17th day of March, 1885.

R. VAN BROCKLEN, [SEAL.]
By his Sol., GILLHAM [SEAL.]
GEO. GILLHAM. [SEAL.]
D. VAN BROCKLEN. [SEAL.]

STATE OF TENNESSEE, *Shelby County,* } *ss:*

I, Sam'l J. McDowell, clerk and master of the chancery court of Shelby county, do hereby certify that the foregoing 150 pages comprises a full, true, and perfect transcript of the proceedings, as per agreement of counsel, had in a certain cause lately pending

herein, wherein B. P. Anderson, com'r of rev., &c.—complainant, and Elizabeth Van Brocklen *et al.*—defendants, as the same appears of record and on file in my office.

In witness whereof I hereto set my hand and affix the seal of said court, at office in Memphis, this 15 day of April, A. D. 1885.

[SEAL.] S. J. McDOWELL,
Clerk & Master,
By J. M. BRADLEY,
D. C. & M.

Land to which the United States acquire title under a direct tax sale is not exempt from State taxation while so held.

The act of the Legislature of March 31, 1885, which provides that all property so held or owned by the United States under direct tax sales shall be exempt from taxation while so held or owned, does not apply to taxes then in course of collection by suit, and is probably unconstitutional, except as a statute of limitations.

B. P. ANDERSON, Com'r, *v.* E. VAN BROCKLIN and others.

Bill filed to collect State, county, and municipal taxes on lot 21, block 6, and lots 13 & 14, block 13, of the Fort Pickering Addition to Memphis, and to enforce the lien therefore given by law. The taxes claimed are for the years 1864 to 1877 or 1878. The chancellor granted the relief sought as to the first lot, and refused it as to the others. Both parties appealed.

All of these lots, then owned by R. H. Glenn, were sold on June 16, 1864, for the failure to pay the direct taxes imposed on realty by the act of Congress of 1862, and were struck off to the United States, the usual certificate of sale being issued accordingly. The United States brought an action of ejectment in the Federal court for these lots, to which Van Brocklin made himself a party, and recovered judgment in January, 1877. No writ of possession issued for the first lot. Van Brocklin being permitted on June 2, 1877, to redeem it in the name of R. H. Glenn by the payment of $2.75 in full of tax and cost. A writ of possession issued for the other lots under which the United States were put in possession on March 29, 1877. The lots were afterwards, on May 2, 1878, sold under the act of Congress for the taxes, and bought by defendant, J. F. Stacy, a son-in-law of Van Brocklin, at the price of $54. The proof is that R. H. Glenn, the original owner of all the lots in 1864, sold them to Van Brocklin prior to 1870, who took and remained in possession of them. The first lot was within the fortifications occupied by the forces of the United States during the civil war, the other lots being just outside the line of the fort.

No point is made on the levy and assessment of the taxes claimed, but the argument on behalf of the defendants is that by the sale of June 16, 1864, and the certificate issued thereon, the title to these lots became vested in the United States, and that the lots thereby became exempt from taxation, either by force of

the laws of the State or of the United States. By the laws of this State lands ceded to the United States by the State, and the buildings thereon, while used for the public service, were exempted from taxation. Code, S. 542, sub. 1, S. 71, act of 1867–'8, ch. 28, brought into the Rev. Code, S. 73*a*, *et seq.* The lands in controversy, not having been ceded by the State to the United States, no exemption from taxation can be successfully claimed under these laws. The act of 1875, ch. 98, subs. 2, exempts generally "all property belonging to the United States," which was no doubt intended to apply to the lands ceded to the United States. It could not extend further, for
172 the constitution of 1870, Art. 2, S. 28, expressly provides that "all property shall be taxed," with power in the Legislature to except only such property "as may be held by the State, by counties, cities, or towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, scientific, literary, or educational." Property bought by the United States at its own tax sale, and held merely to secure the tax, would not come within any of these exemptions. The fact that the United States have acquired the title to land in this State, by purchase or otherwise, would not exempt the property from State taxation. The State will retain the power to tax,
173 unless the right is ceded or remitted by a legislative exemption within the constitutional power of the Legislature. The State cannot tax the agencies of the General Government, but it may tax the realty on or in which the agency is conducted. McCulloch *v.* Maryland, 4 Wheat., 431. The lots in controversy were therefore not exempt from taxation by any law of the State or the United States, and were properly taxed for the years mentioned.

Glenn and Van Brocklin were in actual possession of all the lots until the execution of the writ of possession, on March 29, 1877, as to two of them. By the redemption of lot 21, block 6, without that possession ever having been interfered with, they were *they were* remitted to all their original rights, precisely as if no tax
174 sale had ever been made, no new title being acquired Cooley on Tax, 351, and all of the lots were subject to the lien for these taxes given by statute, which may be enforced against the land into whosesoever hands it may come.

The act of March 31, 1885, which provides that all property held or owned by the United States under direct tax sales shall be exempt from taxation while so held or owned does not apply to this case, because of the proviso which exempts from its operation cases where collections were "prevented or stayed by judicial proceedings" until one year after the determination of such proceedings. The act, except as a statute of limitations, is probably
175 unconstitutional, inasmuch as it undertakes to create exemptions not allowed by the Constitution, and to interfere with rights already in suit. No point is made upon the occupancy of one of the lots by the military forces of the U. S. during the war, and could not be. Rutledge *v.* Fogg, 3 Cold., 554.

The chancellor's decree will be modified so as to declare the right of the complainants to the taxes claimed on all the lots, and order a

reference to ascertain the amount due, unless the parties agree upon the amount. The defendants, Van Brocklin, will pay the costs of the cause.

COOPER, *J.*

176 THE STATE OF TENNESSEE:

Pleas before the supreme court of said State, for the western division thereof, at Jackson, on the first Monday of April, A. D. 1885.

Present: The Hon. Jas. W. Deaderick, chief justice, and Thos. J. Freeman, Wm. F. Cooper, J. B. Cooke, and Peter Turney, judges.

B. P. ANDERSON, Com'r
v. } 1088. Shelby Ch'y. D.
E. VAN BROCKLIN *et al.*

TUESDAY, *June 9th*, 1885.

This cause was heard upon the transcript of the record from the chancery court of Shelby county, and being considered by the court, and it appearing that so much of the decree of the chancery court as decrees lot 21, block 6 to be liable for taxes, State, county, and
177 city, during the whole time said taxes are *are* claimed, is correct, and said decree is affirmed as to said lot 21, block 6; and it further appearing to the court that the decree of the chancery court as to lots 13 and 14, block 13, holding said lots exempt from State, county, and city taxes from 1866 to 1878, inclusive, (said lots having been bought in by the United States Government for direct taxes in 1864 and not sold until the year 1878), is manifest error, and said decree as to lots 13 & 14, block 13, is accordingly reversed, it being adjudged by this court that said lots of land, not having been ceded by the State of Tennessee to the United States, were subject to taxation by said State, county and municipality, notwithstanding the fact that the United States
178 own the same when so levied; and the court being of the opinion that all of said lots, to wit, 21, block 6, and lots 13 and 14, block 13, are liable for State, county, and city taxes during the whole of the time, and for each of the years claimed by complainants herein, doth consider and declare said taxes a lien on said lots superior to all other liens; and it appearing from inspection of the exhibits and by agreement of parties that there are due on lots 13 and 14, block 13, Fort Pickering, Shelby county, Tennessee, and each fronting 24 feet on west side of 4th street by a depth of 112½ feet, city of Memphis, to the State of Tennessee and county of Shelby, taxes from 1866 to 1878, inclusive, with interest to
179 the 1st day of June, 1885, amounting to $156.77, and taxes, 1879, 1880, and 1881, amounting to $9.28; and taxes due the taxing district of Shelby county, amounting with interest to June 4th, 1885, to $15.29; and taxes due the old city of Memphis, with interest to June 4th, 1885, amounting to $64.49; and that there are due on lot 21, b'k 6, Fort Pickering, in city of Memphis, Shelby county, State of Tennessee, having a front of 25 feet on south side of Broadway by a depth on 2d St. of 116 feet, to the State of Tennes-

see, county of Shelby, taxes with interest to the 4th of June, 1885, amounting to $114.69, and to the creditors of the old city of Memphis taxes with interest to June 4th, 1885, amounting to $36.82,
it is, therefore, considered by the court that compl'ts re-
180 cover of defendants the aforesaid sums, and that the same are liens on the said lots superior to all other liens. Defendants are given thirty days to pay said sums into court, and in default thereof the clerk of this supreme court for the western division thereof will proceed to sell said lots at the court-house door, in the city of Memphis, after advertising according to law in some Memphis paper, to the highest bidder, on a credit of six months, purchaser executing his note for the purchase-money, with good security, payable to said clerk, and bearing interest from date, and a lien being retained on said lots as an additional security for the purchase-money. Said sale is made on a credit of six months
181 for the purpose of barring the equity of redemption, which is barred. The proceeds of said sale will be distributed as follows: First, he will pay all costs of this cause in the chancery court, and his costs and fee for making the sale; 2d, he will pay 10% of the State & county taxes and interest to Lee Thornton, as a fee for his services in prosecuing this cause; 3d, he will pay all taxes to the State, county, city, and taxing district, observing the priorities fixed by the law, and the balance of the fund will be paid to the owner of the property. The surplus proceeds of lots 13 and 14, block 13, he will pay to J. F. Stacy, the owner, or his solicitor of record, and of lot 21, block 6, he will pay to R. Van Brocklin, or his
182 solicitor of record. The costs of the appeal from the chancery court will be paid by Royal Van Brocklin and Delas Van Brocklin, and Geo. Gillham, his surety on the cost bond, for which let execution issue.

All of which is finally ordered, adjudged, and decreed.

THE STATE OF TENNESSEE:

I, John W. Buford, clerk of the supreme court of said State for the western division thereof, at Jackson, do certify that the foregoing is a true, perfect, and complete copy of the record in the case of B. P. Anderson, com'r, against Elizabeth Van Brocklin *et al.*, from the Shelby chancery docket, and also of the opinion and judgment of this court pronounced therein, as appears of record now on file in my office.

183 In testimony whereof I have hereunto set my hand and affixed the seal of the court, at office in the city of Jackson, on this the 29th day of August, A. D. 1885, and of the Independence of the United States the 110th year.

[Seal Supreme Court of Tennessee, Western Division, Jackson, Tenn.]

JNO. W. BUFORD, *Clerk*,
By CHAS. C. CONGER, *D. C.*

184 UNITED STATES OF AMERICA:

To Butler P. Anderson, commissioner of revenue; The State of Tennessee, The County of Shelby, The Taxing District of Shelby County, and Laurence Lamb, receiver and back tax collector of the city of Memphis:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday in October, 1885, pursuant to a writ of error filed in the clerk's office of the supreme court for the western division, sitting at Jackson, in a matter of controversy therein in the suit styled Butler P. Anderson, commissioner of revenue, against Elizabeth Van Brocklin and others, wherein R. Van Brocklin and J. F. Stacy are defendants in error, to show cause, if there be
185 any, why the judgment and decree in the said writ of error mentioned should not be corrected and speedy justice done to the parties in that behalf.

Witness the Honorable James W. Deaderick, chief justice of the supreme court of the State of Tennessee, this 11th day of June, 1885.

JAS. W. DEADERICK,
Chief Justice of the Supreme — of Tennessee.

Service of this citation for B. P. Anderson, commissioner of revenue; The State of Tennessee, and The County of Shelby acknowledged this 13th day of June, A. D. 1885.

LEE THORNTON,
Solicitor for State & County
AND —— ANDERSON,
Commissioner of Revenue.
LAURENCE LAMB,
Receiver & Back Tax Collector of the City of Memphis.

Service acknowledged this 15th day of June, A. D. 1885.

TAXING DISTRICT,
Per D. P. HADDEN, *Pet.*

186 A true copy of the original citation this day produced to me, August 29th, 1885.

JNO. W. BUFORD, *Clerk.*
By CHAS. C. CONGER, *D. C.*

Endorsed on cover: Tennessee supreme court. No. 957. R. Van Brocklin and J. F. Stacy, plaintiffs in error, *vs.* Butler P. Anderson, commissioner of revenue; The State of Tennessee, The County of Shelby, The Taxing District of Shelby County, and Lawrence Lamb, receiver and back tax collector of the city of Memphis. Filed September 18, 1885.

The President of the United States to the honorable the judges of the supreme court of the State of Tennessee, Greeting:

Because in the record and proceedings as also in the rendition of a judgment or decree in a certain suit which is in the said supreme court before you, styled Butler P. Anderson, commissioner of revenue, *versus* Elizabeth Van Brocklin and others, in a matter of controversy between Butler P. Anderson, commissioner of revenue; the State of Tennessee, the County of Shelby, the Taxing District of Shelby county, and Laurence Lamb, as receiver and back-tax collector of the city of Memphis, are complainants, and R. Van Brocklin, J. F. Stacy, and others are defendants, a manifest error hath happened to the great damage of the said R. Van Brocklin and J. F. Stacy, as as by their complaint appears, we, being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October, 1885, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, and the seal of said circuit court at Memphis, this 10th day of June, A. D. 1885, and 109th of American Independence.

[Seal of the Circuit Court of the United States for the District of West Tennessee.]

BELL W. ETHERIDGE, *Clerk.*

The foregoing writ of error is allowed by me this 11th day of June, 1885, at Jackson, Tennessee.

JAS. W. DEADERICK,
Chief Justice of the Supreme Court of Tennessee.

The execution of this writ of error appears by the transcript this —— day of ——, A. D. 1885.

JNO. W. BUFORD, *Clk,*
By G. E. O'CONNOR, *D. C,*
Clerk of the Supreme Court of Tennessee, Western Division.

[Endorsed:] Supreme Court U. S. 1885. October term. No. 957. R. Van Brocklin *& al.*, pl'ffs in error, *vs.* Butler P. Anderson, comm'r. Writ of error. [Stamped:] Office Supreme Court U. S. Filed Nov. 9, 1885. James H. McKenney, clerk.

No. 957.

FILED.
NOV 5 1885
JAMES H. McKENNEY,
CLERK.

117-151

Supreme Court of the United States,

OCTOBER TERM, 1885.

B. P. ANDERSON,
Commissioner of Revenue,
vs.
E. VAN BROCKLIN, ET. ALS.

957.

BRIEF FOR PLAINTIFFS IN ERROR.

GEORGE GILLHAM,
W. K. POSTON,
For Plaintiffs in Error.

TRACY & CO., PRINT., 298 MAIN ST., MEMPHIS.

Supreme Court of the United States,

OCTOBER TERM, 1885.

B. P. ANDERSON,
Commissioner of Revenue,
vs.
E. VAN BROCKLIN, ET. ALS.

957.

BRIEF FOR PLAINTIFFS IN ERROR.

I

STATEMENT.

This bill was filed September 26th, 1873, by Anderson, as revenue agent of the State of Tennessee and county of Shelby, to collect certain taxes claimed to be due to the State and county. Subsequently, by authority of a State statute, the city of Memphis became a party complainant, by its receiver, and claimed certain taxes as being due to the municipality. No question is made as to any taxes except those assessed on Lot 21, Block 6, Fort Pickering, a suburb of the city of Memphis, for the years 1864 to 1877, inclusive, and those on Lots 13 and 14, Block 13, Fort Pickering, for the years 1864 to 1878, inclusive. It is conceded in the final decree that all the taxes specified in said decree are due upon the lots as therein stated, Record, p. 54 *provided* the property during these years named was *subject* or *liable* to State, county or municipal assessment and taxation. The plaintiffs in error claim

that the property was not so subject to taxation, by reason of the fact that during said years it belonged to and was the property of the United States. This is the *only* question in the case. The chancellor held that Lots 13 and 14, Block 13, were not liable to State taxation, but that Lot 21, Block 6, was so liable, by reason of the fact that in 1877 the original owner was allowed to redeem that lot from the United States. Record, p. 50. Both parties appealed to the Supreme Court of Tennessee, which court held all the property subject to State taxation for each of said years, and decreed a sale of the same. Record, p. 54 To this decree the original defendants, R. Van Brocklin, the owner of Lot 21, Block 6, and J. F. Stacy, the owner of Lots 13 and 14, Block 13, prosecute a writ of error. The United States acquired title to those lots under the provisions of sections 4 and 7 of an act entitled "An act for the collection of direct taxes in insurrectionary districts, etc," approved June 7, 1862, 12 U. S. Statutes at Large, pp. 422–3, at a sale made for direct taxes on June 16, 1864, at Memphis, Tenn. Record, p. 25. Subsequent to this the United States sued in ejectment for the recovery of each of said lots, and recovered a final judgment for the same in the circuit court of the United States, for the District of West Tennessee. Record, p. 32-49 Judgment being rendered against R. Van Brocklin, the original owner, as vendee of Robert H. Glenn, of the three said lots. Record, p. 43-47

After this, and on June 2, 1877, plaintiff in error, R. Van Brocklin, was allowed to redeem Lot 21, Block 6, in name of his vendor, Robert H. Glenn, Record, p. 29-30 and on May 2, 1878, Lots 13 and 14, Block 13, not having been redeemed, were sold by the Commissioner of Internal Revenue, by approval of the Honorable Secretary of the Treasury, under the provisions of section 4 of act approved June 8, 1872, 17 U. S. Statutes at Large, part 3, page 313,, to the plaintiff in error, J. F. Stacy. Record, p. 45 The original defendants, Van Brocklin and Stacy,

set up these facts by proper pleadings in the chancery court, Record. p. 26-28, as a bar to any recovery on part of the complainants for the taxes assessed during the time the government so owned the property.

II

The plaintiffs in error assign to the decree of the Supreme Court of Tennessee, Record, p. 34, errors as follows:

1st. It was error to hold that the lands here in controversy had not been ceded by the State of Tennessee to the United States.

2d. It was error to hold that because said lands had not been ceded by the State of Tennessee to the United States, the same were liable to State, county and municipal taxation.

3d. It was error to hold that property bought by the United States at its own tax sale, and held merely to secure the tax, would not be exempt from State taxation, under the laws of either the State of Tennessee or the United States.

4th. It was error to hold that the acquisition of the title to lands in Tennessee by purchase, or otherwise, by the United States, would not exempt the property from State taxation, and that the State would still retain the power to tax, unless the right is ceded or remitted by legislative exemption within the constitutional power of the legislature, and that the United States could only acquire lands in Tennessee by cession of the same by the State.

5th. It was error to hold that the lots in controversy were not exempt from taxation by any law of the State of Tennessee or of the United States, and that the same were properly taxed by the State of Tennessee, the county of Shelby and the city of Memphis, for the years 1864 to 1878 inclusive.

6th. It was error to hold that the redemption of Lot 21, Block 6, in any manner effected the legality of the

taxes assessed upon the same from 1864 to 1877 inclusive, or the rights of the complainant to recover the same, or that the legal effect of such redemption was to remit that lot to the same condition, for the purposes of taxation, as though the government had never purchased, owned or released the same.

7th. It was error to hold that all the said lots were encumbered with a lien for the taxes claimed in this proceeding, and that the same should be enforced by sale.

8th. It was error to hold that the act of March 31, 1885, passed that day by the legislature of Tennessee does not apply to or cover the lots here in controversy, or that the said act or any part of the same is unconstitutional.

9th. It was error to hold that the present plaintiffs in error or either of them are liable for the costs of this proceeding and should pay the same.

III

We submit:

1st. That all property owned by the government of the United States, as well as all agencies employed by the government in the exercise of its governmental functions, is exempt from the burden of State taxation.

2d. It has been settled law ever since the decision of the case of McCulloch vs. Maryland, 4th Wheat, 416, that the States cannot tax the property or the agencies of the general government. Since then we submit that it has been uniformly held, both by the Federal and State courts, that the property *owned* by the United States was exempt from State taxation, and we think it equally true that this is so, independent of State legislation on the subject. The courts rest this ruling on broad grounds of general public policy. They say that the power to tax carries with it the power to destroy, and that thus the functions of the general government might be arrested at the will of any State. (4th Wheat, 431). We do not understand the Supreme

Court of Tennessee to deny that this is the law. We however, as a matter of convenience to the court, cite below such authorities as we deem most in point upon this question.

Cooley on Taxation, p. 57-8-9-60
McCulloch vs. Maryland, 4 Wheat, 416.
Osborn vs. Bank, 9 Wheat, 738.
Weston vs. City of Charleston, 4 Pet. 442.
Carroll vs. Safford, 3 Howard, 441-459.
Bank of Commerce vs. New York City,
7 Black, 620.
Bank Tax Case, 2 Wallace, 200.
McGoon vs. Scales, 9 Wall., 27.
Blue Jacket vs. Commissioners, 2 Kansas, 348.
Speed vs. County Court, 42 Mo., 383.
Fagan vs. Chicago, 84 Ills., 227.
State vs. Hartford, 49 Conn., 89.
Western Telegraph Co. vs. Richmond,
26 Grattan, 30.
Nashville vs. Bank of Tennessee, 1 Swan, 269.
State of Tennessee vs. Ewing, 11 Lea,
(Tennessee, 172.)

Many of the cases rest the decision upon the naked and simple question of ownership by the United States. Notice 9 Wall., at p. 27, where this court holds in terms that a tax sale of government land is void. See also 3 Kansas, 348; 42 Mo., 383; 84 Ills., 227; 49 Conn., 89; 26 Grattan, 30; 11 Lea, 172; and we believe that no respectable authority has ever held that where the ownership, both legal and equitable title, was in the United States, the property was subject to State taxation.

2d. The Tennessee legislation, bearing upon this subject is as follows: The constitution of 1834, which remained in force until 1870, when a new constitution was adopted, as to taxation of lands, provided as follows: "All lands *liable* to taxation, held by deed, grant or entry, town lots, bank stock, slaves between the ages of twelve and

fifty years, and such other property as the legislature may from time to time deem expedient, shall be taxable." * * * Article 2, section 28, constitution of 1834, found in Code of 1858, at page 39.

By the new constitution of 1870, referred to by Judge Cooper in his opinion in this case, this section of the old constitution is put into the following language: "All property, real, personal or mixed, shall be taxed; but the legislature may except such as may be held by the State, by counties, cities or towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, etc." * * * "and shall except $1000.00 worth of personal property in the hands of each tax payer, and the direct products of the soil in the hands of the producer and his immediate vendee." * These we believe are the only constitutional provisions touching the subject in our State. By section 71, Code of Tennessee of 1858, at page 84, and which was carried into the new Code of 1870-1 as section 71, and at page 245, in exactly the same language, it is provided—"*exclusive* jurisdiction of lands purchased by the United States for public uses is ceded to the United States so long as the lands are used for the public service." This section was the law in 1858, has never been changed, and is the law to-day. By section 542 of the Code of Tennessee of 1858, under the head of "property exempt from execution," it is provided, "542, of all property above enumerated, the following shall be exempt from taxation:

1st. Lands ceded to the Unit... ...ites, and the buildings and property placed thereon while used by the government for the public service.

2d. All property belonging to the State, or any county, or to the State Bank or branches."

This section was carried into the Code of 1871 in haec verba, as section 542. Thus stood the statutes of Tennessee in 1864 when the United States purchased this property, and so they have remained since then.

By an act approved March 24, 1875, being chapter cviii, page 177, of the Acts of 1875, entitled "An Act to define what property is, by the constitution, exempt from taxation, and what the legislature, under the power conferred upon it, does exempt, and what is taxable, provides, section 1, "Be it enacted by the General Assembly of the State of Tennessee: All property, real, personal or mixed, shall be assessed and taxed, except the following: *** All property belonging to the United States, or the State of Tennessee. 3. All property belonging to any county, city or town, and used exclusively for public or corporation purposes."

During the present year, and on March 31, 1885, the legislature passed an act entitled "An Act to bar the collection of back taxes," being chapter 86, page 174, of Acts of Tennessee, 1885. Section 1 of this act is as follows: "Section 1. Be it enacted by the General Assembly of the State of Tennessee, That all State, county, city, school and railroad taxes, and all taxes on privileges and polls now due the State, counties or municipalities, for the collection of which no suits have been commenced, shall be barred, and all liens for said taxes be cancelled, unless the same are collected, or suits for the collection be instituted: 1. in case of taxes for the year 1878 and previous thereto within one year from the passage of this act: 2. in the case of taxes for the years 1879 and up to and inclusive of the year 1884, within six years from the time they fell due." "Sec. 2. Be it further enacted, That when the title to any property was taken out of the original owners by virtue of a sale under the laws of the United States, passed June, 1864, and the laws passed amendatory of the same levying direct taxes, such property, and all property while held and owned by the United States, shall be held to be exempt from taxation, and all assessments upon said property for State, county or municipal taxes while so held or owned, shall be held to be null and void, and all liens therefor are released and discharged, and no suit shall be maintained

nor sale made to enforce the collection of any such tax while so held; provided, that this act shall not apply to cases where assessments or collections have been enjoined, or otherwise prevented or stayed by any judicial proceedings, until one year after the termination of such proceedings. Sec. 3. "Be it further enacted, that this act take effect from and after its passage, the public welfare requiring it."

IV

We submit:

1st. That under the constitution and laws of Tennessee this property was not taxable, and 2d, that, independent of said State laws, it was not taxable, upon well settled grounds of public policy. If the property was purchased by the United States for *public uses*, then, under section 71 of the Code, it stood *ceded* to the United States, and under section 542, being ceded, was not taxable; and further, that the State having surrendered all its jurisdiction over the property by a grant of *exclusive* jurisdiction to the United States, could not tax the property, for the State cannot tax property over which it has not jurisdiction.

That the purchase was for the public use we think too clear for disputation. The levy of the direct tax was for a public use, and the purchase at a tax sale but a step to accomplish the purpose. DeTreville vs. Smalls, 98 U. S. at p. 522. The power to tax, of necessity carries with it the power to bid and purchase at the sale, for, otherwise, a want of bidders would, or might, defeat the collection and render the government powerless to enforce its levy of a direct tax within the territory of a State.

Again: It cannot be presumed that the purchase by the sovereign was or *could* be for any other than a public use. We cannot conceive of the government buying lands for other than a public use. We submit that the Supreme Court of Tennessee was in error in holding that

the land had not been ceded to the United States, and more clearly still in error, in holding that the government could not, of right, purchase land at its own direct tax sale, *whether ceded by the State or not.* It will not do to admit that a State can prevent the levy and collection of a direct tax on real estate imposed by the general government, by withholding its power to, and refusing to cede said lands to the government. This would be the consummation of one of the greatest evils predicted by Judge Marshall in McCulloch vs. Maryland, and would prevent the government from locating navy yards, arsenals and other public works, at the will of the State. The constitution, we cannot believe, will ever, at the hands of this court, receive such construction, when considering the respective rights and powers of the State and general governments. To state, is to answer the proposition here advanced by the Supreme Court of Tennessee.

V

If the Tennessee Court is correct in holding that the United States can only become the owner of land in Tennessee upon its cession by said State, and that the land in controversy has not been so ceded, then it logically follows that all the direct tax sales made under the acts of Congress of 1861-2-3 in this State, and in such other States as have failed to cede the property, "where the sale was made to the United States," were void. If the government could not purchase it got no title by reason of its bid and the certificate issued by the direct tax commissioner. However, this court has had before it several cases arising under such direct tax sales and acts of Congress, where the sale was made to the United States by said commissioners, in all of which the court has assumed that the government might so purchase through its commissioners. In some of the cases the tax sale was upheld, whilst in others it was held void by reason of other questions and principles of law involved. In each of the four

following cases from three or four different States the sale was directly to the United States.

Cooley vs. O'Connor, 12 Wall., 391.
DeTreville vs. Smalls, 98 U. S., 517.
United States vs. Lee, 106 U. S., 196.
United States vs. Lawton, 110 U. S., 146.

And this clearly, without reference to the fact whether the State in which the land was situated had or had not ceded it to the United States. This point, if well taken, was *vital* in the two first cases cited, was overlooked by counsel and the court, and resulted in erroneous decisions. However, we submit that it is the Tennessee Court which is in error. In 98 U. S., p. 522, the Court says, while discussing the subject of the effect of such sale to the United States, "for these purposes it was quite as important that the government should have evidence of its title, if it purchased, as it was that any other purchaser should have such evidence. Taxes, not lands, were what the government required. If the United States became the purchaser at the commissioner's sale, it was only to obtain the taxes by a resale, and such a resale, resting, as it must have done, upon the original sale made by the commissioners, needed the encouragement and support of a commissioner's certificate equally with a purchase by any bidder. It is not, therefore, to be admitted that the statute intended to put the United States in any worse condition than that occupied by any other successful bidder." We suppose there can be no question that this court has, in all the cases before it touching such sales, assumed that at such sales the United States could, as provided in said acts, purchase the property. Some of these cases, for convenience, we cite below:

Bennett vs. Hunter, 9 Wall., 326.
Corbett vs. Nutt, 10 Wall., 464.
Cooley vs. O'Connor, 12 Wall., 391.
Turner vs. Smith, 14 Wall., 553.
Tracy vs. Irwin, 18 Wall., 549.
DeTreville vs. Smalls, 98 U. S. 517.

Atwood vs. Weems, 99 U. S., 183.
Keely vs. Sanders, (sale in Tenn.) 99 U. S., 441.
U. S. vs. Taylor, 104 U. S., 216.
Kaufman vs. Lee, 106 U. S., 196.
U. S. vs. Lawton, 110 U. S., 146.

VI

If we are correct in the assumption that a State cannot tax property owned by the United States, all the lots stand in the same situation as to taxation, and the fact that Congress by subsequent acts allowed the owner to redeem Lot 21, Block 6, can make no difference. It is the fact of *ownership* at the date of the levy that inhibits the tax. The acts of Congress permitting such redemption were passed *after* the right to redeem under the original act had expired. The owner, R. Van Brocklin, was under no disability named in the act, and was bound to redeem within 60 days. Sec. 7 of Act of 1862, 12 U. S., p. 423.

VII

In construing the Tennessee Act of March 31, 1885, we submit the court fell into the error of making the last clause of section 2 apply to and limit the effect of the balance of that section, when it was intended only to apply to the first section of the act. This clearly appears upon a careful reading of all of said act.

VIII

The constitutional limitations as to taxable property, referred to in the opinion of the Court, arose first with the constitution of 1870, seven years after the rights of the United States in this property became fixed and vested, and can have no retroactive effect to disturb or impair the same.

Respectfully submitted,

GEORGE GILLHAM,
W. K. POSTON,
For Plaintiffs in Error.

For convenience, we print extracts below from the acts of Congress before referred to:

"An Act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," passed June 7, 1862. Section 4 of this act is as follows:

"Sec. 4. And be it further enacted, That the title of, in and to each and every piece or parcel of land upon which said tax has not been paid as above provided, shall thereupon become forfeited to the United States, and upon the sale hereinafter provided for, shall vest in the United States or in the purchasers at such sale, in fee simple, free and discharged from all prior liens, encumbrances, right, title and claim whatsoever." 12 U. S. Statutes at Large, p. 423.

In section 7 it is "PROVIDED, that the owner of said lots of ground, or any loyal person of the United States, having any valid lien upon or interest in the same, may, at any time within sixty days after said sale, appear before the said board of tax commissioners in his or her own proper person, and, if a citizen, upon taking an oath to support the constitution of the United States and paying the amount of said tax and penalty, with interest thereon from the date of said proclamation of the President mentioned in the second section of this act, at the rate of fifteen per centum per annum, together with the expenses of the sale and subsequent proceedings to be determined by said commissioners, may redeem said lots of land from said sale; and any purchaser under the same, having paid moneys, treasury notes or other certificates of indebtedness of the United States, shall, upon such redemption being made, be entitled to have the same with the interest accruing after said sale, returned to him by the

said commissioners, upon surrendering up the certificates of sale." * * * * 12 U. S. Statutes at Large, p. 423.

By act passed February 6, 1863, section 7 of act of June 7, 1862, was amended as follows:

"*Provided*, That the owner of said lots of ground, or any loyal person of the United States having any valid lien upon or interest in the same may, at any time within sixty days after said sale, appear before the said board of tax commissioners in his or her own proper person, and, if a citizen, upon taking an oath to support the constitution of the United States, and paying the amount of said tax and penalty, with interest thereon from the date of the said proclamation of the President mentioned in the second section of this act, at the rate of fifteen per centum per annum, together with the expenses of the sale and subsequent proceedings, to be determined by said commissioners, may redeem said lots of land from said sale; and any purchaser under the same having paid moneys, treasury notes, or other certificates of indebtedness of the United States, shall, upon such redemption being made, be entitled to have the same, with the interest accruing after said sale, returned to him by the said commissioners, upon surrendering up the certificates of sale." * * * 12 U. S. Statutes at Large, p. 640.

117-151

Supreme Court of the United States,

OCTOBER TERM, 1885.

B. P. ANDERSON,
Commissioner,
vs.
E. VAN BROCKLIN, ET. ALS.

No. 957.

Supplemental Brief for Plaintiffs in Error, in answer to Briefs of Opposing Counsel.

GEO. GILLHAM,
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Sols. for Plaintiffs in Error.

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Defendants in error insist that no Federal question is involved in this case; upon this we submit:

1st. That under section 709 of the revised statutes of the United States, the jurisdiction of this court is clear. The case necessarily involves the validity of the statutes of Tennessee imposing taxes on the lots in question whilst owned by the United States, during the years 1864 to 1878 inclusive.

2d. Plaintiffs in error claim an *immunity* from State taxation, because the property belonged to the government of the United States, and insist that any law of Tennessee imposing taxes upon such property whilst so owned, is in violation of the constitution of the United States. Among the powers of Congress enumerated in the constitution, article 1, section 8, is the following:

"Congress shall have power to lay and collect taxes, duties, imposts and excises; to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States; to borrow money on the credit of the United States, * * * * *."

The direct tax under which this property was sold and purchased by the United States, was levied by Congress under authority of this constitutional provision. Plaintiffs in error submit that this constitutional provision is violated by the assessment and levy of the taxes by the State of Tennessee upon this property whilst owned by the United States. The *immunity* here claimed, is that of freedom from State taxation upon lands owned by the United States. If a State can tax government property such as this, it has the further power to collect such taxes, and this may be done by a sale of the property, leaving the United States the option of either paying the taxes or allowing the property to be sold, and the collection of the tax to the United States thus defeated. This would result necessarily in a total impairment of the efficiency of the agency employed by the government in raising its revenue by direct taxation upon land. In Weston vs. the City Council of Charleston, 2 Peters, 449, this identical question arose, under the 25th section of the judicial act as it then stood. There the State of South Carolina or the city of Charleston undertook to tax the stock of the United States held by its creditors. There, as here, the owners of the property insisted that it was not so taxable, and that the tax levied was a violation of the constitution of the United States. The highest court of that State having sustained the tax levy, the case was brought to this court

by writ of error, as in the present case. It was objected that this record presented no Federal question. The court, however, through Judge Marshall, held that a Federal question was involved and sutained the jurisdiction of this court. It was there held that an attempt upon the part of a State to tax the stock of the United States violated that clause of article 1, section 8, above quoted, authorizing Congress to borrow money on the credit of the United States. If the court had jurisdiction in 1829, when this case was decided, it would seem that there could now be no question as to the jurisdiction, the 25th section of the judicial act having been since then so much enlarged and extended. Without further citation of authorities, we submit that no serious question can arise upon this record as to the jurisdiction of this court.

3d. The case of Fort Leavenworth Railroad Co. vs. Lowe, 114 U. S., 525, is relied upon by opposing counsel as establishing the proposition that where the government becomes the owner of land within a State without the consent of, or cession of the same by said State, that the State retains the power of taxation. We submit, however, that such is not the holding in that case, and that the court went no further than to admit that in such case the State would retain its *political* jurisdiction over the same. The question which we contend for, to-wit: the *immunity* of lands owned by the United States from State taxation, was not involved or decided in that case. The expressions of the learned judge delivering the opinion in that case, in effect that, where the United States became the owner of lands within a State, without cession of the same by the State, and held the same for other than *purely* public use, "the government would hold it as would any other ordi-

nary proprietor," can be taken to mean no more than that, as to such lands, the *political* jurisdiction of the State is complete, but not that a State would have the right to tax the government property. Certainly it was not meant that wherever the government owns land for other than *purely public use*, such as forts, arsenals and light-houses, it is conceded to be liable to State taxation. Such concession would include the public domain of the United States.

Respectfully submitted,

GEO. GILLHAM,
W. K. POSTON,
Sols. for Plaintiffs in Error.

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117-151

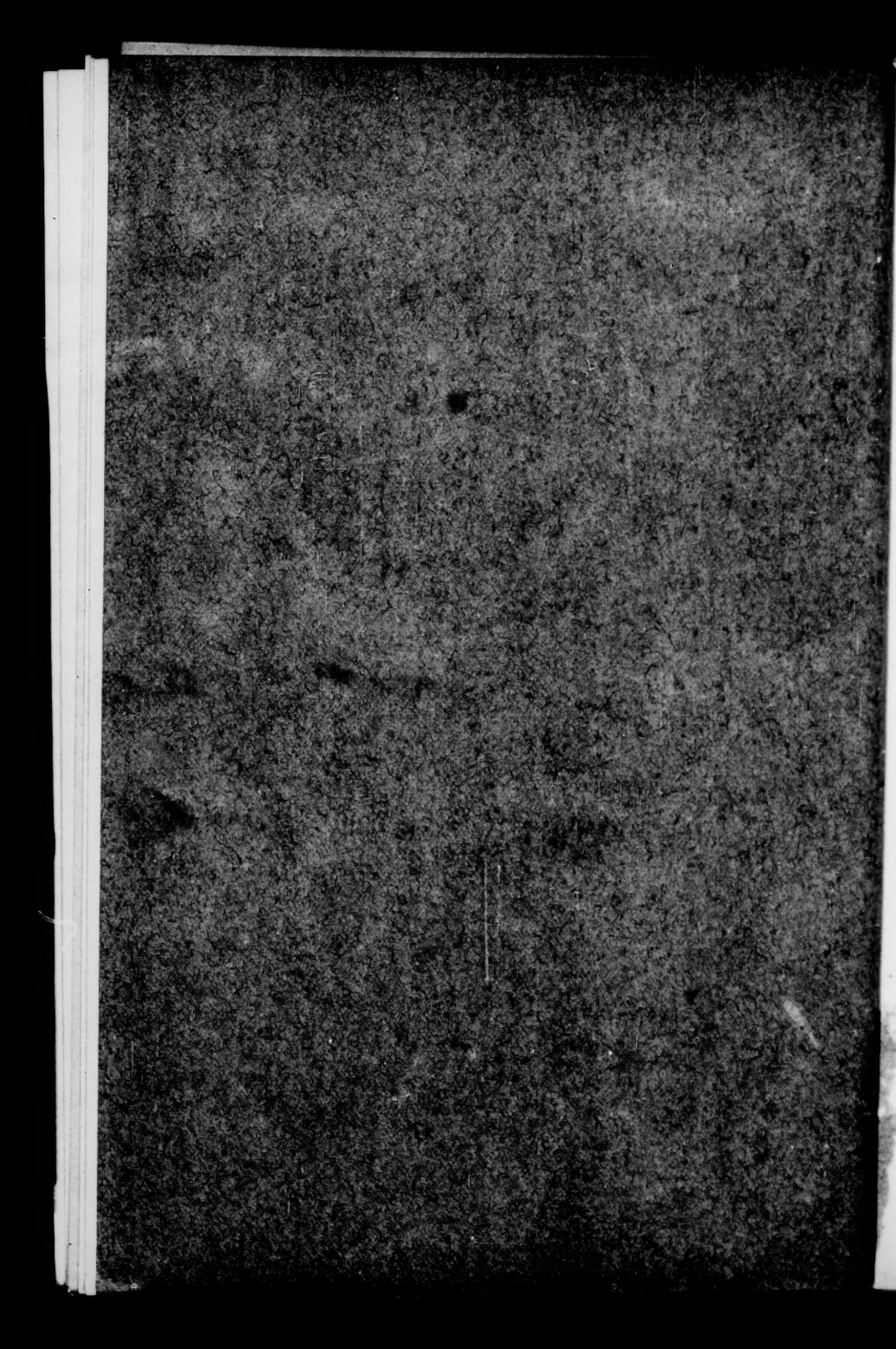
Supreme Court of the United States

OCTOBER TERM, 1885.

ELIZABETH VAN BROCKLIN ET AL.
vs.
B. P. ANDERSON, *Revenue Commissioner.*
957

BRIEF OF J. B. HEISKELL
For Defendants in Error.

E. C. TOOF & CO. PRS. & LITHS. MEMPHIS



In United States Supreme Court.

OCTOBER TERM, 1885.

ELIZABETH VAN BROCKLIN ET AL.,,

vs. } 957.

B. P. ANDERSON, *Revenue Commissioner*, ET AL.

BRIEF FOR DEFENDANTS IN ERROR.

STATEMENT OF CASE.

The property in question was sold on the 16th day of June, 1864, under the provisions of the acts of Congress of August 5th, 1865, June 7th, 1862, and February 6th, 1863, for direct taxes, and bought by the United States.

One of the lots was redeemed by the owner in 1877, the other two were sold by the United States in 1878.

No question is made upon any occupation or possession on the part of the Government, but it is insisted that while the title acquired under the purchase of June 16th, 1864, remained in the United States the property was not subject to State, county and municipal taxes.

This is the sole question presented for determination.

I.

No exemption was intended by the United States.

The acts of 1861–2–3 do not propose any exclusion of State jurisdiction in the case of land sold for non-payment of taxes.

In the case of De Treville v. Smalls, 98 U. S. 522, cited by opposing counsel, this court says, "If the United States became the purchaser at the commissioner's sale it was only to obtain the taxes by a resale * * *"

The decisions of this court place it beyond question that such was the policy of the general Government in carrying out this system of direct taxation.

In the case of United States v. Taylor, 104 U. S. 216, it was held that where an individual became the purchaser for an amount greater than the tax, penalty, interest and costs, the surplus was to be refunded to the owner or his legal representatives.

In United States v. Lawton, 110 U. S. 146, this rule is applied to a state of facts similar to the present case. The land was bought in by the United States for $1,100.00. The tax, penalty, interest and costs amounted to $170.50, and it was held that the balance bid, over and above the amount due, should be refunded to the owner.

These cases are conclusive as to the view that the general Government intended to take only its taxes, penalties, interest and costs, and that its purchase was only to accomplish this end.

The United States, as shown by the record, took the title in 1864, but did not disturb the possession until 1877. Is it conceivable that the general Government intended to withdraw this property from State and county taxation during that time, and then hand over the surplus value to the citizen of the State and county? Is it possible that the United States would leave the owner in possession during thirteen years and then enable him to take the value of the property, free from taxation under the laws of the State for those years? In other words, was it the purpose of the Federal Government to exempt this property from State taxation, not for its own benefit, but for the benefit

of the citizen of the State—the owner whose delinquency caused the sale in 1864?

II.

No exemption by reason of United States holding the title.

Without reference to the intention of the United States, the property was subject to taxation under the laws of the State.

In the case of Fort Leavenworth Railroad Company v. Lowe, 114 United States 525, decided at the last term of this court, the following proposition is decided: "When the United States acquire lands within the limits of a State by purchase, with the consent of the Legislature of the State, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings, the Constitution confers upon them exclusive jurisdiction of the tract so acquired; but when they acquire such lands in any other way than by purchase with the consent of the Legislature, their exclusive jurisdiction is confined to the erections, buildings and lands used for the public purposes of the Federal Government."

The question there was whether property in the Fort Leavenworth military reservation, owned by the United States, was subject to taxation by the State. The reservation was acquired by the general Government by cession from France in 1803, and owned at the time Kansas became a State. The Legislature of Kansas afterward ceded to the United States jurisdiction of the territory, but reserved the right, among others, to tax railroad property. It was insisted by the railroad that this saving clause was ineffectual to limit the exclusive jurisdiction of the United States over its own property.

In the course of the opinion the court negatives the idea formerly maintained, that the United States could acquire property only by consent of the State. This dis-

poses of the dilemma propounded by counsel for plaintiffs in error. The sale to the United States under acts of 1861–2–3 was not void because the State failed to consent or cede the property. But in the language of the opinion, "The consent of the States to the purchase of lands within them for the special purposes named is, however, essential under the Constitution to the transfer to the general Government, with the title, of political jurisdiction and dominion. Where lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor. The property in that case, unless used as a means to carry out the purposes of the Government, is subject to the legislative authority and control of the States equally with the property of private individuals."

And again: "Where, therefore, lands are acquired in any other way by the United States within the limits of a State than by purchase with her consent, they will hold the lands subject to this qualification: that if upon them forts, arsenals or other public buildings are erected for the uses of the general Government, such buildings, with their appurtenances, as instrumentalities for the execution of its powers, will be free from any such interference and jurisdiction of the State as would destroy or impair their effective use for the purposes designed. Such is the law with reference to all instrumentalities created by the general Government. Their exemption from State control is essential to the independence and sovereign authority of the United States within the sphere of their delegated powers. But when not used as such instrumentalities, the legislative power of the State over the places acquired will be as full and complete as over any other places within her limits."

The case of McGoon v. Scales, 9 Wall. 27, does not apply, for that was a case from Wisconsin, and by the enabling act for Wisconsin approved Aug. 6, 1846, sec. 7,

sub-sec. 5, it is stipulated "*that no tax shall be imposed* on lands the property of the United States." * * See charters and Constitutions, pt. 2, p. 2027. In the case of Fort Leavenworth R. R. v. Lowe, it is said that exemption from State jurisdiction might have been stipulated for when Kansas was admitted into the Union. "Congress might undoubtedly, upon such admission, have stipulated for retention of the political authority, dominion and legislative power of the United States over the reservation so long as it should be used for military purposes by the Government; that is, it could have exempted the place from the jurisdiction of Kansas, as one needed for the uses of the general Government."

No jurisdiction, exclusive or limited, was stipulated for upon the admission of Kansas, and the court declares the doctrine controlling such a case. As to the present case, I endeavor to show in the remaining propositions of this brief, that there was no consent on the part of the State to the jurisdiction of the general Government over the property in question, and that the purposes for which the title was acquired and held were not such as to warrant the United States in making a stipulation for such jurisdiction.

III.

Not exempt under State law.

If I am right in the position that the United States can claim no exclusive jurisdiction except for such purposes of public use as are indicated in article 1, § 8 of the Constitution, then the question of cession by the State is immaterial. It is clear, however, that there is no error in the decision of the Supreme Court of Tennessee on this point. That court holds that the Act of 1875, ch. 98, § 2, which exempts "all property belonging to the United States," was only intended to apply to lands ceded to the United

States, since it would be in conflict with the Constitution of 1870, article 2, § 28, if extended further. This, as well as the construction of the Act of March 31, 1885, is a matter purely of State law—a State court passing upon State statutes, and presents no Federal question. The only statute law of Tennessee remaining to be considered is found in §§ 71 and 542 of the Code of 1858, carried without change into the Code of 1871.

§ 71 is: "Exclusive jurisdiction of lands purchased by the United States, for public uses, is ceded to the United States so long as the lands are used for the public service."

So much of § 542 as applies is as follows: "Of the property above enumerated, the following shall be exempt from taxation:

1. Lands ceded to the United States, and the buildings placed thereon, while used by the Government for the public service."

It is evident that these enactments were made in view of article 1, § 8 of the Federal Constitution, and are only coextensive with the purposes thereof. Nothing can be claimed for plaintiffs in error under the language of § 542, unless the land in question was *ceded*. It is contended, however, that the property was purchased for public uses, and therefore "stood ceded to the United States" under § 71 of the Code, and under § 542, being ceded was not taxable. If in the meaning of § 71 the land was purchased for public uses, then there was no need to go any further to find exemption, for if § 71 applies at all, this property was not only exempt from taxation but entirely beyond the jurisdiction of the State for all purposes whatsoever.

Can lands purchased by the United States at sale for taxes and not occupied for any purpose, be said to have been used "for the public service?" In what sense were

they used at all? If this was a use for the public service, I can conceive of no tenure by the United States which would not, under Fort Leavenworth R. R. v. Lowe, carry with it exclusive jurisdiction. It is difficult to see how property purchased at tax sale can be said to be for public uses or for public service, any more than land purchased from a foreign government.

IV.

The exemption not authorized by the Constitution of the United States.

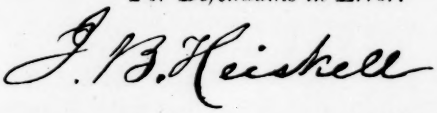
The position assumed by counsel for plaintiffs in error, that this property was exempt by virtue of the ownership of the United States from 1864 to 1878, forces them to the position that the Federal Government had exclusive jurisdiction, during that period, of the land in question. Inasmuch as the general Government has not, by statute or otherwise, claimed any such exemption, it must arise, if at all, by virtue of Art. 1, § 8, of the Constitution. But this section confers the exemption, if at all, only by conferring the right of exclusive legislation. "If the United States had the right of exclusive legislation, they would have also exclusive jurisdiction." People v. Godfrey, 17 Johns. 225. Cited in Fort Leavenworth Railroad v. Lowe, 114 United States, at p. 538. But the Constitution authorizes the exclusive jurisdiction only where land is acquired "for the erection of forts, magazines, arsenals, dock-yards and other needful buildings."

Likewise, if exemption is claimed by virtue of the cession of the State, it must be under § 71 of the Code, and this also confers exclusive jurisdiction, evidently for the express purpose of meeting the requirements of Art. 1, § 8, clause 17, of the Constitution of the United States. Thus to maintain the exemption in any view, the exclusive jurisdiction of the United States over this property must

be established. I submit that it is only when land is acquired or retained for such use of the general Government, as indicated in the Constitution, that the United States can assume exclusive jurisdiction, or accept it under the cession of the State.

If the position to which counsel for plaintiffs in error are thus driven is correct, it follows that every criminal offence committed upon any of the land purchased by the United States at direct tax sale, during the time the title remained in the general Government, would be without the jurisdiction of the State, and only cognizable by the Federal authorities. Residents upon such land while the title was so held would not be citizens of the State or entitled to vote at State elections. Results, surely, not contemplated by either State or Federal Government.

J. B. HEISKELL,
For Defendants in Error.



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IN THE SUPREME COURT OF THE UNITED STATES.

October Term 1885.--No. 957.

ELIZABETH VAN BROCKLIN, *et al.*, Plaintiffs in Error,

vs.

B. P. ANDERSON, Revenue Com'r, *et al.*, Def'ts in Error.

BRIEF FOR DEFENDANT IN ERROR.

LEE THORNTON,
Of Counsel for Defendants in Error.

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STATEMENT OF THE CASE.

Lot 21, Block 6, and Lots 13 and 14, Block 13, Fort Pickering, city of Memphis, Shelby county, were sold on the 16th day of June, 1864, under the provisions of the Act of Congress 1862, and Acts amendatory, for direct taxes due on said lots to the United States, and bought in at said sale by the United States.

The United States brought ejectment in the Federal Court to test the title to said lots. On 11th of January, 1877, a verdict was rendered in favor of plaintiff. Robert H. Glenn, the owner, redeemed lot 21, block 6, on the 2nd of June, 1877, for $2.75. The United States was put in possession of lots 13 and 14 on the 29th of March, 1877. On the 2nd day of May, 1878, the United States sold the interest it had acquired in said lots to J. F. Stacy; lot 13 for $26.00 and lot 14 for $28.00. All of these lots are assessed and taxed for state, county, and city taxes for each year from 1864 to 1878. B. P. Anderson for state of Tennessee, filed a bill in the chancery court of Shelby county, to sell said lots for said taxes. The chancellor decreed lot 21, block 6, liable for all years, and lots 13 and 14 exempt from all taxes from the time they were bought to the time they were sold by the United States. Both parties appeal and the supreme court of Tennessee decides that all three of the lots are liable for state, county and city taxes for all the years. Writ of error by defendants to this court.

THE COURT HAS NO JURISDICTION.

The supreme court can only obtain jurisdiction of a case of this character under the Act of February 5th, 1867, Section 709 Revised Statutes:

"A final judgment or decree in any suit in the highest court of a state in which a decision could be had, where any title, right, *privilege* or *immunity*, is claimed under the constitution, or any treaty or statute of, or commission held or authority exercised under the United States; and the decision is against the title, right, privilege or immunity, specially set up or claimed by either party, under such constitution, treaty, statute, commission, or authority, may be re-examined and reversed or affirmed by a writ of error."

These lots were sold under the Acts of Congress, passed August 5th, 1861, June 7th, 1862, and February 6th, 1863. These Acts of Congress were for the levy and collection of taxes on lands in insurrectionary districts; they provided for a sale of the lands, gave time for a redemption and authorized the commissioners to convey to the purchaser such title as the United States had acquired. No privilege of exemption from state taxation was claimed; no immunity was attempted; they were acts for the collection of revenue and nothing more. Unless this court finds that the appellants had these lots exempted under the Acts of Congress above referred to, there is no exemption into which the court can inquire.

So "the court can only review such portions of the record as are covered by the terms of the Act; that is, where the party claims some title, right or privilege, or immunity under an Act of Congress." Montgomery vs. Hernandes, 12 Wheaton 132.

"No case not stated in the act can be made to reverse the state court." 10 Peters 369.

"If the decision of a state court is on a state law and not on the validity or construction of an Act of Congress, this court has no power to review." McBride vs. Hovey, 11 Peters 167.

"If the decision of the state court is consistent with the construction of the act or treaty, no case for appellate jurisdiction is made out." Ocean Ins. Co. vs. Wm. Polly, 13 Peters 157.

In this case the decision of the state court in no way conflicts with these Acts of Congress:

"And if the jurisdiction does not appear in the record the court will dismiss the case though both plaintiff and defendant press for a trial, and though no motion is made to dismiss." Wills vs. Brown, 16 Peters 525.

The leading case since the Act of February 5th, 1867, is Murdock vs. The City of Memphis, 20th Wallace 591. By this case it is settled that the federal question alone is to be looked to by the court; and to this end the court is to determine:

1. If it is in the record.
2. Has the state court decided it adversely.
3. Was this decision correct?

Murdock vs. Memphis makes the decisions above under the 25th section of Judiciary Act of 1789, the law under the Act of February 5th, 1867; and so the question for jurisdiction is, "was there an exemption from state taxation under the Acts of 1861-62-63?" And as there was no exemption there can be no jurisdiction.

NO POWER IN THE FEDERAL GOVERNMENT TO EXEMPT.

The opening sentence in Witherspoon vs. Duncan declares the law: "It is not the province of this court to interfere with the policy of the revenue laws of the state, nor with the interpretation given them by their courts. Arkansas has the right to determine the manner of levying or collecting taxes, and can declare that the particular tract of land shall be chargeable with the taxes no matter who is the owner." This case in 4th Wallace 217, was taken up under an alleged violation of a compact made by the state of Arkansas on its admission into the Union, that certain public lands should not be taxed by the state, while the United States government held them, and this exemption is only contended for and only recognized under the compact voluntarily entered by the state of Arkansas, and so the decision of our state court in this case is, that the exemption in Tennesse is only for lands voluntarily ceded by the state of Tennessee to the United States.

A state has the right to tax all lands in its borders, and this

right of taxation co-extensive with its territorial limits can only be lost by its own voluntary act. Article X of the Constitution of the United States is:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the states are reserved to the states respectively or to the people."

The power to tax these lots, in the state of Tennnessee, I admit, was constitutiona ly exercised by the United States. I do not questio the validity of that tax or tax sale (Sub. Sec. 3 of Sec. 2, Art. 1 of Const.), but tne power to exempt lands in the confines of a state from state taxation, is with the state alone. It was never delegated. It must in the very nature of things be with the state, and only with the state.

The United States cannot by an Act of Congress constitutionally exempt from state taxation land from which the state draws its revenue; and it cannot do by any proceedure under an Act what it cannot do by an Act itself. The state is sovereign and supreme except as to those powers expressly conferred by the Constitution of the United States, and the power to exempt from state taxation is not among them; the state may tax or it may exempt from taxes; it is a power incident to its sovereignty, essential to its being, necessary to its position in the Union.

The question of exemption from state taxation is for the state courts not for the Federal. Suppose these lots are exempted from state, county and city taxes by reason of an Act of Congress and the proceedure under it, exempted in spite of state legislation and of the state courts, what guarantee have we for existence. "The life of the state is taxes." The basis of taxation in Tennessee is real estate; if these lots can be exempted every lot in Fort Pickering, every lot in Memphis, every lot in Shelby county, every lot in the state could have been exempted and the state destroyed. No such power was ever conferred on the government. The states cannot destroy the Union, the Union can not destroy the states. If any right is reserved to the states it must be the right to existence, incident to that is the right to say how, when and from what property the citizen of the state is to pay the state his taxes.

The case of the state of Maryland vs. McCullough relied on by the other side, I consider an authority for defendants in error; the state of Maryland had not the power by taxation to impede or hinder a mere agency of the United States; the reverse of that proposition is equally true and the United States has not the power to impede by exemption or otherwise a state in the collection of its taxes. The reverse of the State vs. McCullough will be found in the Collector vs. Day, 11 Wallace 126. In that case the question was: "Has the United States the power to tax the salary of a state judge?" And although his salary, as soon as paid belonged to him as an individual, so careful was the court, of the rights, powers and interests of the state, that it held it could not be done. The court says, Mr Justice Nelson delivering the opinion:

"The supremacy of the general government so much relied on by counsel for plaintiff in error, in respect to the question before us cannot be maintained. The two governments are upon an equality and the question is whether the power to lay and collect taxes enables the general government to tax the salary of a judicial officer of the state.

* * * The exemption of the officer from taxation stands upon as solid a ground and is maintained by principles and reasons as cogent as those which led to the exemption of the Federal officer, in Dobbs vs. The Commissioner of Erie, from taxation by the state; for in this respect, that is, in respect to its reserved powers the state is as sovereign and independent as the general government."

Then if the Federal government can not tax the salary of a state officer, because he is an instrumentality of the state, because it might interfere with the due administration of state government, how much greater is the reason that prohibits the general government from interfering with the source from which that salary is derived; in the one case it is taking a part of the salary; in the other it is preventing the state from collecting the fund from which to pay that salary.

"The power to tax is the power to destroy." McCullough vs. Mayland. That is to destroy the thing taxed. The power

to exempt is also the power to destroy, that from which the exempt on is made.

"Unless restrained by provisions of the Federal constitution the power of the state as to the mode, form and extent of taxation is unlimited, where the subjects to which it applies are in her jurisdiction."

Kirkland vs. Hotchkiss 100 U. S. p. 498.

Providence Bank vs. Billings, 4 Peters 563.

St. Louis vs. Ferry Co. 11 Wallace 425 and 15 Wallace 315.

Now there is no provision of the Federal constitution that restrains the state in this case—the land was in its jurisdiction and the appellant is its citizen.

"The right of taxation by a state extends to all subjects over which its sovereign power extends." Kent.

"That the power of taxation is one of vital importance; that it is retained by the states; that it is not abridged by the grant of a similar power to the government of the union; that it is to be concurrently exercised by the two governments; are truths which have never been denied."

This is the language of Chief Justice Marshall in plaintiff in error's cardinal case of McCollough vs. Maryland. And so all along from the first to the last. While this court has constantly upheld the powers of the Federal government, it has as vigilantly protected the rights of the states. The Federal government has taxed these lots as it had the right to do. The state has taxed them as it had the right to do. It was a right that the two governments had, and that they concurrently exercised. One has recovered its taxes, and the other in this case is seeking to recover them.

NO EXEMPTION WAS CONTEMPLATED.

I have treated this case as if the United States intended to exempt this property from state taxation; as a fact nothing of the kind was ever contemplated. These Acts of Congress were only for the purpose of collecting a tax from the citizens of the United States. The sale by the United States and the purchase by it were only for the purpose of securing the amount of the tax and penalty, not for the purpose of taking the property. This is

very clearly shown by its allowing Stacy, after the time for redemption had elapsed, to redeem a $200 lot for $2.75.

I cite on this point U. S. vs. Taylor, 104 U. S. 216.

U. S. vs. Lawton, 110 U. S. 146, where this court held that all the surplus of the purchase money derived from a direct tax-sale, after paying costs and taxes, should be refunded to the owner. So, then, the proceedings were for the purpose of securing the tax, and for nothing else. If the intention was as contended by the plaintiffs in error, it would have been confiscation, but the whole proceeding shows that nothing of the kind was ever contemplated. The sale and purchase was simply to fasten the lien of the United States on the lots and to secure the same as with a mortgage.

It is contended that this property was purchased for public uses, by the United States, and therefore was ceded to the United States by the state; but ceded lands are under the jurisdiction of the United States. Tennessee Code, sec. 71, art. 1, sec. 8 of Federal Constitution. And a cession must be a voluntary act of the state; the land ceded is eliminated from the state; it becomes a part of the general government; crimes committed on it are cognizable in the Federal courts; its residents are not citizens of the state; and to apply this doctrine to a lot here and a lot there that may have been purchased by the United States is absurd. Here the United States bought the title of the individual to the lot, not the interest of the state, and it held that title as an individual. See Fort Leavenworth R. R. vs. Lowe, 114 U. S. 531. The state has a definite and fixed interest changeless, among all the changes of title, the title of an individual may be sold by judicial process, just as it was here, not so the interest of a state. That can only be defeated by a voluntary relinquishment on its part. In this matter the state was never consulted, and never relinquished its interest in the lot. The tax and penalty due the United States was a very small part of the value of the lots, and out of the same lot the state can take its tax without wrong to the owner, and without disregarding the power of the Federal government.

Plaintiffs in error cite and argue on the statutes, constitution